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HOUSE OF REPRESENTATIVES

of the

General Assembly

of the

Commonwealth of Kentucky

2002 Regular Session

Volume III

Held in the State Capitol in the City of Frankfort,
at Frankfort, in the Year of Our Lord 2002,
and in the Two Hundred and Tenth
Year of the Commonwealth

Begun on Tuesday, the Eighth Day of January, 2002, and Adjourned
Sine Die on Monday, the Fifteenth Day of April, 2002

Paid for from state funds

FOREWORD

The Kentucky Constitution requires each chamber of the General Assembly to keep a journal as a public accounting of daily legislative activity. The journal is the official record of action.

The Kentucky Revised Statutes require the Legislative Research Commission to compile, edit, correct, and publish the journals of each chamber. This is the House Journal for the Regular Session of the 2002 General Assembly.

Texts of bills, joint resolutions, and concurrent resolutions appear in the journal on the day of their first reading. Texts of simple resolutions appear on the day of either their first reading or adoption. Texts of committee amendments appear when they are reported out of committee and floor amendments are inserted at the end of the day on which they were filed. The appendices include a table of actions on bills and resolutions, a list of elected representatives, roll call votes, and a sponsor and subject index.

JoAnn Paulin, Rhonda Carter, and Shelly Purvis prepared the *House Journal* for the 2002 Regular Session. The edited copy and appendices in this volume reflect the cooperative efforts of the LRC Staff.

Robert S. Sherman
Director

The Capitol
Frankfort, Kentucky
2003

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TUESDAY, FEBRUARY 19, 2002

TWENTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend David Hinson, First Baptist Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Baugh, Graham, and Miller.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Friday, February 15, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 687, by Representatives Miller, Siler, Dw. Butler, L. Belcher, P. Clark, Moberly, J. Lee, L. Clark, Hoffman, Nunn, and Horlander: AN ACT relating to Kentucky educational excellence scholarship awards.

HB 688, by Representative Dw. Butler: AN ACT relating to negotiable instruments.

HB 689, by Representative Dw. Butler: AN ACT relating to timber.

HB 690, by Representative L. Belcher: AN ACT relating to automobile liability insurance coverage.

HB 691, by Representative L. Belcher: AN ACT relating to crimes and punishments.

HB 692, by Representative Bowling: AN ACT relating to domestic relations.

HCR 147, by Representative Palumbo: A CONCURRENT RESOLUTION creating an Interim Subcommittee on Small Business Regulation.

HJR 148, by Representative Dw. Butler: A JOINT RESOLUTION directing the Cabinet for Health Services to develop an efficient network for the distribution of used assistive devices.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Agriculture and Small Business: **HB 682**

Appropriations and Revenue: **HB 683, SB 138**

Economic Development: **SB 134**

Education: **HB 681, 684, 686, SB 129**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **SB 128**

Judiciary: **SB 170**

Local Government: **SB 112, 141**

State Government: **SB 121, 149**

Transportation: **HB 685, SB 107, 183**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Local Government: **HB 533**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 39, HB 180, HB 194,** with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee on Appropriations and Revenue reported **HB 415** with Committee Substitute attached thereto, **HB 501, HB 517,** and **HB 634** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 415, AN ACT relating to the Kentucky Law Enforcement Foundation Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.410 is amended to read as follows:

It is the intention of the General Assembly to assure that the criminal laws of the Commonwealth are enforced fairly, uniformly and effectively throughout the state by strengthening and upgrading[~~ local~~] law enforcement ***agencies***; to attract competent, highly qualified young people to the field of law enforcement and to retain qualified and experienced officers for the purpose of providing maximum protection and safety to the citizens of, and the visitors to, this Commonwealth; and to offer a state monetary supplement for ***Kentucky State Police officers and*** local law enforcement officers while upgrading the educational and training standards of such officers.

Section 2. KRS 15.420 is amended to read as follows:

As used in KRS 15.410 to 15.510, unless the context otherwise requires:

(1) "Local unit of government" means any city or county, combination of cities and counties, state or public university, or county sheriff's office of the Commonwealth.

(2) "Police officer" means a full-time member of ***the Kentucky State Police,*** a lawfully organized police department of county, urban-county or city government, a sheriff or full-time deputy sheriff, including any providing court security or appointed under KRS 70.030, or a state or public university police officer who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but does not include[~~ Kentucky State Police,~~] any sheriff who earns the maximum constitutional salary for this office, any special deputy sheriff appointed under KRS 70.045, any constable, deputy constable, district detective, deputy district detective, special local peace officer, auxiliary police officer or any other peace officer not specifically authorized in KRS 15.410 to 15.510.

(3) "Council" means the Kentucky Law Enforcement Council.

(4) "Validated job task analysis" means the core job description which describes the minimum entry level requirements, qualifications, and training requirements for peace officers in the Commonwealth which is based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study.

Section 3. KRS 15.430 is amended to read as follows:

(1) There is hereby established the Law Enforcement Foundation Program fund consisting of appropriations from the general fund of the Commonwealth of Kentucky, and insurance premium surcharge proceeds which accrue to this fund pursuant to KRS 42.190 and 136.392. Any other funds, gifts, or grants made available to the state for distribution to local units of government in accordance with the provisions of KRS 15.410 to 15.510 also shall be made a part of this fund.

(2) All moneys remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, but, beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse. On and after July 1, 1999, moneys in this account shall not lapse. ***Beginning with fiscal year 2003, moneys in excess of three million dollars ($3,000,000) shall be distributed to the Kentucky State Police officers meeting the requirements of Sections 2 and 4 of this Act in the manner set out in Section 6 of this Act. In no instance shall any salary supplement to police officers be reduced to provide a salary supplement to the Kentucky State Police officers participating in the fund.***

Section 4. KRS 15.440 is amended to read as follows:

If the Department of State Police or a[~~Each~~] local unit of government[~~ which~~] meets the following requirements***, then that entity*** shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:

(1) Employs one (1) or more police officers;

(2) Pays every police officer at least the minimum federal wage;

(3) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky Law Enforcement Council, for employment of police officers***, other than Kentucky State Police officers,*** on or after July 1, 1972, ***and all Kentucky State Police officers appointed on or after the effective date of this Act,*** and for all sheriffs appointed or elected on or after July 15, 1998, and all deputy sheriffs, and state or public university police officers employed after July 15, 1998; provided, however, that all police officers employed prior to July 1, 1972, shall be deemed to have met the requirements of this subsection, and that all sheriffs serving in office on July 15, 1998, all deputy sheriffs,

and state or public university police, employed prior to July 15, 1998***, and that all Kentucky State Police officers appointed before the effective date of this Act*** shall be deemed to have met the requirements of this subsection;

(4) Requires all police officers***, other than Kentucky State Police officers,*** employed on or after July 1, 1972, ***and all Kentucky State Police officers appointed on or after the effective date of this Act,*** and all sheriffs appointed or elected on or after July 15, 1998, and deputy sheriffs, and state or public university police officers employed on or after January 1, 1998, to successfully complete a basic training course of at least six hundred forty (640) hours' duration within one (1) year of the date of employment at a school certified or recognized by the Kentucky Law Enforcement Council. All sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to January 1, 1998, ***and all members of the Kentucky State Police appointed before the effective date of this Act*** shall be deemed to have met the requirements of this subsection. The council may, by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, set the number of hours for basic training at a number higher than six hundred forty (640) hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis;

(5) Requires all police officers, ***other than Kentucky State Police officers,*** whether originally employed before or after July 1, 1972, ***and all Kentucky State Police officers appointed before, on, or after the effective date of this Act,*** and all sheriffs appointed or elected before, on, or after July 15, 1998, and all deputy sheriffs and state or public police officers employed before, on, or after July 15, 1998, to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least forty (40) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council;

(6) Requires compliance with all provisions of law applicable to local police, state or public university police,[~~ or~~] sheriffs and their deputies, ***or Kentucky State Police officers,*** including transmission of data to the centralized criminal history record information system as required by KRS 17.150;

(7) Requires compliance with all reasonable ***administrative***[~~rules and~~] regulations, appropriate to the size and location of the local police department, state or public university police department,[~~ or~~] sheriff's office, ***or the Department of State Police*** issued by the Justice Cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;

(8) Provided, however, that ***the Kentucky State Police or a***[~~no~~] local unit of government which meets the criteria of this section shall ***not*** be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund unless the local police department, state or public university police department,[~~ or~~] sheriff's office***, or the Department of State Police*** actually begins and continues to comply with the requirements of this section; provided, further, that ***a***[~~no~~] local unit ***or the Kentucky State Police*** shall ***not*** be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund until the local police department, state or public university police department,[~~ or~~] sheriff's office***, or the Department of State Police*** has substantially complied with subsections (6) and (7) of this section.

Section 5. KRS 15.450 is amended to read as follows:

(1) The secretary or his designated representative shall administer the Law Enforcement Foundation Program fund pursuant to the provisions of KRS 15.410 to 15.510 and may promulgate any administrative regulations as, in his judgment, are necessary to carry out his responsibilities under KRS 15.410 to 15.510. Administrative hearings promulgated by administrative regulation under authority of this section shall be conducted in accordance with KRS Chapter 13B.

(2) The secretary or his designated representative shall determine ***whether the Department of State Police is eligible and*** which local units of government are eligible to share in the Law Enforcement Foundation Program fund and may withhold or terminate payments ***to the Department of State Police or*** to any local unit that does not comply with the requirements of KRS 15.410 to 15.510 or the administrative regulations issued by the Justice Cabinet under KRS 15.410 to 15.510.

(3) The Justice Cabinet shall, from moneys appropriated and accruing to the fund as provided under KRS 15.430, receive reimbursement for the salaries and other costs of administering the fund, including, but not limited to, council operations and expenses. The amount to be reimbursed for any given year shall be determined by the council and shall not exceed five percent (5%) of the total amount of funds for that year.

(4) The Justice Cabinet shall furnish periodically to the council any reports as may be deemed reasonably necessary.

Section 6. KRS 15.460 is amended to read as follows:

(1) Beginning July 15, 1998, an eligible local unit of government***, and beginning July 15, 2002, the Department of State Police if eligible,*** shall be entitled to receive annually a supplement of two thousand seven hundred fifty dollars ($2,750) for each qualified police officer it employs, and beginning on July 1, 1999, ***an eligible local unit of government and beginning July 15, 2002, the Department of State Police if eligible, shall be entitled to receive*** an annual supplement of three thousand dollars ($3,000) for each qualified police officer it employs, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan to which the officer belongs, but no more than the required employer's contribution to the County Employees Retirement System hazardous duty category***, except that qualified Kentucky State Police officers shall receive an annual supplement not to exceed the amount specified in this subsection for other police officers, plus an amount equal to the required employer's contribution to the State***

Police Retirement System under KRS 16.510 to 16.652 in the manner specified in Section 3 of this Act. In the case of County Employees Retirement System membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or nonhazardous coverage. The local unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.

(2) Each qualified police officer, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by the local government the supplement which his qualifications brought to the local government. The supplement paid each police officer shall be in addition to his regular salary.

(3) (a) Each qualified sheriff who receives the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527 shall not receive a supplement.

(b) Each qualified sheriff who does not receive the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527, excluding the expense allowance provided by KRS 70.170, shall upon final settlement with the fiscal court under KRS 134.310, receive that portion of the supplement that will not cause his compensation to exceed the maximum salary.

(c) Each qualified sheriff who seeks to participate in the fund shall forward a copy of the final settlement prepared under KRS 134.310 to the fund. The sheriff shall reimburse the fund if an audit of the final settlement conducted pursuant to KRS 134.310 reflects that the sheriff received all or a portion of the supplement in violation of this section. A sheriff who fails to provide a copy of the final settlement to the fund or to reimburse the fund after correction by audit, if required, shall not be qualified to participate in the fund for a period of two (2) years.

(d) Each qualified deputy sheriff shall receive the supplement from the sheriff if the sheriff administers his own budget or from the county treasurer if the sheriff pools his fees. The failure of a sheriff to comply with the provisions of this section shall not affect the qualification of his deputies to participate in the fund.

Section 7. KRS 15.470 is amended to read as follows:

Law Enforcement Foundation Program funds made available to ***the Department of State Police or*** local units shall be received, held and expended in accordance with the provisions of KRS 15.410 to 15.510, including the rules and regulations issued by the Justice Cabinet, and the following specific restrictions:

(1) Funds provided shall be used only as a cash salary supplement to police officers, for payments to the defined benefit pension plan to which the officer belongs to cover employer retirement costs on the cash salary supplement, and for administrative costs as provided in KRS 15.450;

(2) Funds provided shall be used only to compensate police officers who have complied with KRS 15.440(3), (4), and (5).

(3) Each police officer shall be entitled to receive the state supplement which his qualifications brought to the ***Department of State Police or*** local unit;

(4) Funds provided shall not be used to supplant existing salaries or as a substitute for normal salary increases periodically due to police officers.

Section 8. KRS 15.480 is amended to read as follows:

The Finance and Administration Cabinet, on the certification of the Justice Cabinet, shall draw warrants as specified hereinafter on the State Treasurer for the amount of the Law Enforcement Foundation Program fund due ***the Department of State Police, if participating, and*** each participating local unit. Checks shall be issued by the State Treasurer and transmitted to the Justice Cabinet for distribution to the proper officials of ***the Department of State Police, if participating, and*** participating local units which have complied with the provisions of KRS 15.410 to 15.510 and the rules and regulations of the Justice Cabinet. Beginning July 1, 1972, and on the first day of each month thereafter, the share of each eligible and participating local unit of government shall be distributed from the Law Enforcement Foundation Program fund.

Section 9. KRS 15.490 is amended to read as follows:

(1) ***The Department of State Police, if participating, and*** each participating local unit of government shall submit reports to the Justice Cabinet on March 31, June 30, September 30 and December 31 of each year containing information relative to number, rank, education, training, and compensation of police officers employed by it and the disposition made of any state or other funds received pursuant to KRS 15.410 to 15.510. Nothing in this section shall prohibit the Justice Cabinet from requiring additional information or reports from participating local units of government;

(2) ***The Department of State Police and*** local units of government shall include the additional compensation paid to each police officer from the Law Enforcement Foundation Program fund as a part of the officer's salary in determining all payroll deductions.

Section 10. KRS 15.500 is amended to read as follows:

(1) If funds appropriated by the General Assembly and otherwise made available to the Law Enforcement Foundation Program fund are insufficient to provide the amount of money required by KRS 15.460, the Justice Cabinet shall establish the rate of assistance to be paid to ***the Department of State Police, if eligible, and*** eligible local units of governments.

(2) Funds unexpended by the Justice Cabinet at the close of the fiscal year for which the funds were appropriated and otherwise made available to this fund pursuant to KRS 15.430, 42.190 and 136.392, shall not lapse as provided by KRS 45.229, but shall be carried forward into the following fiscal year, and shall be used solely for the purposes specified in KRS 15.410 to 15.500.

Section 11. KRS 15.510 is amended to read as follows:

(1) An appeal may be taken from any decision of the Justice Cabinet to withhold or terminate payment from the Law Enforcement Foundation Program fund to the Department of State Police. Appeals shall be taken to the Franklin Circuit Court.

(2) An appeal may be taken from any decision of the Justice Cabinet to withhold or terminate payment from the Law Enforcement Foundation Program fund to any local unit of government. Appeals shall be taken to the Circuit Court of the county where the controversy originates.

Section 12. KRS 42.190 is amended to read as follows:

(1) On June 1, 1982, and then on or before the first day of each December, March, June, and September thereafter, the cabinet shall request in writing of the administrator of the Firefighters Foundation Program fund, which is established by KRS 95A.220, and of the administrator of the Law Enforcement Foundation Program fund, which is established by KRS 15.430, cost projections of their respective funds for the next quarter. Based on these projections, the cabinet shall determine the proportionate share of total insurance premium surcharge proceeds, prescribed in KRS 136.392, to accrue to each fund. ***The cabinet shall not consider the Kentucky State Police participation as a factor in determining the proportionate share of total insurance premium surcharge proceeds for each fund.***

(2) On or before the first day of each quarter, the cabinet shall certify to the State Treasurer a distribution schedule describing the proportionate share of total insurance premium surcharge proceeds accruing to each fund during such quarter, and the State Treasurer shall pay into each fund's trust and agency account its proportionate share of all deposited tax moneys as set forth and in the manner as prescribed in KRS 136.392.

(3) Moneys deposited in the Firefighters Foundation Program fund's trust and agency account, and in the Law Enforcement Foundation Program fund's trust and agency account, shall be invested by the state in accordance with state investment practices, and all earnings from such investments shall accrue to, and be paid into the respective account from which such investments are made. All moneys remaining on deposit at the close of the state's fiscal year in the Firefighters Foundation Program fund's trust and agency account and all earnings from investments made from moneys in this account in excess of three million dollars ($3,000,000), beginning with fiscal year 1994-95, through June 30, 1999, shall lapse, except that moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. All moneys remaining on deposit at the close of the state's fiscal year in the Law Enforcement Foundation Program fund's trust and agency account, and all earnings from investments made from moneys in this account, in excess of three million dollars ($3,000,000), beginning with fiscal year 1994-95, through June 30, 1999, shall lapse. On and after July 1, 1999, moneys in these accounts shall not lapse. ***Beginning with fiscal year 2003, moneys in excess of three million dollars ($3,000,000) shall be distributed to the Kentucky State Police officers under the provisions of Section 3 of this Act.***

(4) The cabinet shall provide monthly financial reports to the administrator of the Firefighters Foundation Program fund and the administrator of the Law Enforcement Foundation Program fund respecting the amount of funds received and on deposit in each fund and the amount of earnings accruing to each fund from their investment.

(5) The administrator of the Kentucky Law Enforcement Foundation Program fund in its calculation of its cost projections under KRS 15.455 shall not consider the participation of eligible Kentucky State Police officers in that calculation. Any payments made to the Department of the State Police shall be done in accordance with this section and Sections 1 to 11 of this Act.

The Committee Substitute to **HB 415** is as follows:

HB 415, AN ACT relating to the Kentucky Law Enforcement Foundation Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. Whereas the General Assembly finds:

(1) That the enforcement of the criminal laws of the Commonwealth in a fair and uniform manner throughout the Commonwealth provides for the maximum protection and safety to the citizens of, and visitors to, the Commonwealth; and

(2) That Kentucky State Police officers play a major law enforcement role throughout the Commonwealth; and

(3) That attracting highly qualified individuals to become Kentucky State Police officers and retaining qualified and experienced Kentucky State Police officers ensures the protection and safety of the public; and

(4) The issue of participation in the Law Enforcement Foundation Program fund by Kentucky State Police officers as a method of attracting highly qualified individuals to become Kentucky State Police officers and retaining qualified and experienced Kentucky State Police officers is an issue that should be studied;

The Task Force on the Recruitment and Retention of Kentucky State Police officers is created.

Section 2. The Task Force shall consist of:

(1) Two (2) members of the Senate appointed by the President of the Senate;

(2) Two (2) members of the House appointed by the Speaker of the House of Representatives;

(3) Two (2) officers of the Kentucky State Police appointed by the commissioner of the Department of the Kentucky State Police;

(4) Two (2) members from the Kentucky Law Enforcement Council appointed by the Legislative Research Commission.

Section 3. The chair and co-chair shall be appointed by the Legislative Research Commission from among the legislative members. The task force shall report its findings and recommendations to the Legislative Research Commission no later than October 1, 2002.

Section 4. Provisions of this Act to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

HB 501, AN ACT relating to a tax refund designation for Kentucky Educational Television.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

A taxpayer required to file a return in accordance with KRS 141.180 who is entitled to an income tax refund and who desires to contribute to Kentucky Educational Television may designate an amount, not to exceed three dollars ($3) or the amount of the refund, whichever is less, to be paid to Kentucky Educational Television. The designation shall not increase or decrease the amount of the income tax liability of a taxpayer, but it shall reduce the income tax refund of the taxpayer by the amount designated.

HB 517, AN ACT relating to sales and use tax exemption for cervid farmers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;

(9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;

(10) Machinery for new and expanded industry;

(11) Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery,

attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(12) Property which has been certified as a pollution control facility as defined in KRS 224.01-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1994;

(13) Tombstones and other memorial grave markers;

(14) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(15) On-farm facilities used exclusively for raising poultry or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply, but not be limited to, vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(16) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively and directly to:

(a) Operate farm machinery as defined in subsection (11) of this section;

(b) Operate on-farm grain or soybean drying facilities as defined in subsection (14) of this section;

(c) Operate on-farm poultry or livestock facilities defined in subsection (15) of this section;

(d) Operate-on farm ratite facilities defined in subsection (24) of this section;

(e) Operate on-farm llama or alpaca facilities as defined in subsection (26) of this section; or

(f) Operate on-farm dairy facilities;

(17) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(18) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(19) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

(20) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(21) Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, 1994;

(22) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;

(23) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;

(24) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(25) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming;

(26) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(27) Baling twine and baling wire for the baling of hay and straw;

(28) Water sold to a person regularly engaged in the business of farming and used in the:

(a) Production of crops;

(b) Production of milk for sale; or

(c) Raising and feeding of:

1. Livestock or poultry, the products of which ordinarily constitute food for human consumption; or

2. Ratites, llamas, alpacas, buffalo, ***cervids*** or aquatic organisms;

(29) Buffalos to be used as beasts of burden or in an agricultural pursuit for the production of hides, breeding stock, meat, and buffalo by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;[~~ and~~]

(30) Aquatic organisms sold directly to or raised by a person regularly engaged in the business of producing products of aquaculture, as defined in KRS 260.960, for sale, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Water;

(c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and

(d) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities and, any gasoline, special fuels, liquified petroleum gas, or natural gas used to operate the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities*; and*

(31) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the production of hides, breeding stock, meat, and cervid by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and

(c) On-site facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities.

Section 2. This Act takes effect August 1, 2002.

HB 634, AN ACT relating to the taxation of mobile telecommunications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.100 is amended to read as follows:

(1) "Retail sale" or "sale at retail" means:

(a) 1. A sale for any purpose other than resale in the regular course of business of tangible personal property, or

2. The furnishing of the facilities and services mentioned in subsection (2) of this section;

(b) The delivery in this state of tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer pursuant to a retail sale made by a retailer not engaged in business in this state. The person making the delivery shall include the retail selling price of the property in his gross receipts.

(2) "Retail sale" or "sale at retail" shall include but shall not be limited to the following:

(a) The rental of any room or rooms, lodgings, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply, however, to rooms, lodgings, or accommodations supplied for a continuous period of thirty (30) days or more to an individual;

(b) The furnishing of sewer services;

(c) The sale of admissions, except, those taxed under KRS 138.480;

(d) The furnishing of communications services***, other than mobile telecommunications services as defined in 4 U.S.C. sec. 124,*** to a service address in this state, regardless of where those services are billed or paid, when the communications service:

1. Originates and terminates in this state;

2. Originates in this state; or

3. Terminates in this state***;***

(e) The furnishing of mobile telecommunications services as defined in 4 U.S.C. sec. 124 to a customer with a service address in this state.

(3) For the purposes of this chapter, "communications service" means the provision, transmission, conveyance, or routing, for a consideration, of voice, data, video, or any other information or signals of the purchaser's choosing to a point, or between or among points, specified by the purchaser, by or through any electronic, radio, light, fiber optics, or any similar medium or method now in existence or later devised. "Communications service" includes, but is not limited to, local telephone services, long-distance telephone services, telegraph services, teletypewriter services, teleconferencing services, private line services involving a direct channel specifically dedicated to a customer's use between specific points, channel services involving a path of communications between two (2) or more points, data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method, caller ID services, voice mail and other electronic messaging services, mobile communications service, and Internet telephony involving telephone service in which messages originate or terminate over the public switched telephone network but are transmitted in part using transmission control protocol, Internet protocol, or other similar means. "Communications service" does not include any of the following if the charges for the goods or services are separately itemized on the bill provided to the purchaser:

(a) Information services;

(b) Internet access;

(c) Installation, reinstallation, or maintenance of wiring or equipment on a customer's premises. However, this provision does not apply to any charge attributable to the connection, movement, change, or termination of a communication service;

(d) The sale of directory and other advertising and listing services;

(e) The sale of one-way paging services;

(f) Billing and collection services provided to another communications service provider; or

(g) Cable service, satellite broadcast, satellite master antenna television, and wireless cable service, including direct to home satellite service as defined in Section 602 of the Federal Cable Act of 1996.

(4) For the purposes of this chapter, "service address" means:

(a) The location of communications equipment from which communications service is originated or at which communications service is received by the purchaser. In the event that this is not a defined location, as in the case of ~~[mobile phones, paging systems,]~~maritime systems, air-to-ground systems, third number and calling card calls, service address means the location of the purchaser's primary use of the communications equipment, as determined by telephone number, authorization code, the purchaser's billing address, or other street address provided by the purchaser as the location of primary use, but the address must be within the licensed service area of the communications service provider;

(b) In the case of a communications service***, other than mobile telecommunications services as defined in 4 U.S.C. sec. 124,*** paid through a credit or payment mechanism that does not relate to a service address, such as a bank, travel, debit, or credit card, the service address is deemed to be the address of the origination of the communications service; and

(c) In the case of mobile ***telecommunications***[~~communications~~] service ***as defined in 4 U.S.C. sec. 124***[~~provided under intercarrier roaming agreements~~], the service address shall be ***the place of primary use as defined and determined under 4 U.S.C. secs. 116 to 126***[~~deemed to be the physical location of the serving carrier's switch that originates or terminates the call~~].

SECTION 2. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

As it relates to the taxation under this chapter of mobile telecommunications services as defined in 4 U.S.C. sec. 124:

(1) The provisions of 4 U.S.C. secs. 116 to 126 are hereby adopted and incorporated by reference.

(2) If a customer believes that a tax, charge, fee, or assignment of place of primary use or taxing jurisdiction on a bill is incorrect, the customer shall notify the home service provider about the alleged error, in writing. This notification shall include the street address for the customer's place of primary use, the account name and number for which the customer seeks a correction, a description of the alleged error, and any other information that the home service provider reasonably requires. Within sixty (60) days of receiving the customer's notification, the home service provider shall either correct the error and refund or credit all taxes, charges, and fees incorrectly charged to the customer within four (4) years of the customer's notification, or explain to the customer in writing how the bill was correct and why a refund or credit will not be made.

(3) A customer shall not have a cause of action against a home service provider for any erroneously collected taxes, charges, or fees until the customer has exhausted the procedure set forth in subsection (2) of this section.

Section 3. KRS 65.7629 is amended to read as follows:

The board shall administer the provisions of KRS 65.7621 to 65.7643, and shall have the following powers and duties:

(1) To review, evaluate, and approve or disapprove the plans or plan modifications that are submitted to the board for complying with the wireless E911 service requirements established by the FCC order and by any rules or regulations which are or may be adopted by the Federal Communications Commission in carrying out the FCC order;

(2) To develop standards to be followed by the board in reviewing, evaluating, approving, or disapproving the plans or plan modifications that are submitted to the board;

(3) To collect the CMRS service charge from each CMRS connection ***with a place of primary use, as defined in 4 U.S.C. sec. 124,*** within the Commonwealth. The CMRS service charge shall be seventy cents ($0.70) per month per CMRS connection, and shall be collected in accordance with KRS 65.7635 beginning August 15, 1998. The amount of the CMRS service charge shall not be increased except by act of the General Assembly;

(4) To review the rate of the CMRS service charge at least once every twenty-four (24) months and, at its discretion, to decrease the rate or recommend that the General Assembly increase the rate if the board determines that changing the rate is necessary to achieve the purposes of KRS 65.7621 to 65.7643. The first cost study shall be completed on or before July 1, 1999, and shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives, and the board shall recommend, on the basis of the cost study, whether legislation to increase the CMRS service charge should be proposed during the 2000 Regular Session of the General Assembly;

(5) To administer and maintain the CMRS fund according to the provisions of KRS 65.7627, and promptly to deposit all revenues from the CMRS service charge into the CMRS fund;

(6) To make disbursements from the CMRS fund, according to the allocations and requirements established in KRS 65.7631;

(7) To establish procedures and guidelines to be followed by the board in reviewing, evaluating, and approving or disapproving disbursements from the CMRS fund and requests for disbursements made in accordance with KRS 65.7631;

(8) To resolve conflicts regarding reimbursable costs and expenses under KRS 65.7631(2) and (3);

(9) To submit annual reports to the Auditor of Public Accounts no later than sixty (60) days after the close of each fiscal year, which shall provide an accounting for all CMRS service charges deposited into the CMRS fund during the preceding fiscal year and all disbursements to CMRS providers and PSAPs during the preceding fiscal year;

(10) To employ consultants, engineers, and other persons and employees as may be, in the judgment of the board, essential to the board's operations, functions, and responsibilities, and to fix and pay their compensation from funds available to the CMRS board;

(11) To acquire, by gift, purchase, installment purchase, or lease, any equipment necessary to carry out the board's purposes and duties;

(12) To retain any and all information, including all proprietary information, that is submitted to the board by CMRS providers and PSAPs, for the purposes of maintaining it and verifying its accuracy;

(13) To retain, with approval by the Auditor of Public Accounts, an independent certified public accountant who shall audit,

once every twenty-four (24) months, the books of the board, CMRS providers, and PSAPs eligible to request or receive disbursements from the CMRS fund under KRS 65.7631 for the following purposes:

(a) To verify the accuracy of collection, receipts, and disbursements of all revenues derived from the CMRS service charge and the number of wireless E911 calls received by each PSAP eligible to request or receive disbursements from the CMRS fund;

(b) To determine whether the revenues generated by the CMRS service charge equal, exceed, or are less than the costs incurred in order to comply with the FCC order; and

(c) To determine the sufficiency of the funds currently being withheld for administrative purposes under KRS 65.7631(1).

The independent certified public accountant shall make a report of the audits to the board and to the appropriate chief executive officer or officers of the CMRS providers and PSAPs. The board shall incorporate the auditor's findings in its studies of the CMRS service charge required by subsection (4) of this section. All information with respect to the audits shall be released to the public or published only in aggregate amounts which do not identify or allow identification of numbers of subscribers or revenues attributable to individual CMRS providers;

(14) To ensure that all carriers have an equal opportunity to participate in the wireless E911 system;

(15) To ensure that wireless E911 systems are compatible with wireline E911 systems; and

(16) To determine the appropriate method for disbursing funds to PSAP's based on wireless workload under KRS 65.7631(2)(b).

SECTION 4. A NEW SECTION OF KRS 65.7621 TO 65.7643 IS CREATED TO READ AS FOLLOWS:

As it relates, under KRS 65.7621 to 65.7643, to mobile telecommunications services as defined in 4 U.S.C. sec. 124:

(1) The provisions of 4 U.S.C. secs. 116 to 126 are hereby adopted and incorporated by reference.

(2) If a customer believes that a tax, charge, fee, or assignment of place of primary use or taxing jurisdiction on a bill is incorrect, the customer shall notify the service provider about the alleged error in writing. This notification shall include the street address for the customer's place of primary use, the account name and number for which the customer seeks a correction, a description of the alleged error, and any other information that the service provider reasonably requires. Within sixty (60) days of receiving the customer's notification, the service provider shall either correct the error and refund or credit all taxes, charges, and fees incorrectly charged to the customer within four (4) years of the customer's notification, or explain to the customer in writing how the bill was correct and why a refund or credit will not be made.

(3) A customer shall not have a cause of action against a service provider for any erroneously collected taxes, charges, or fees until the customer has exhausted the procedure set forth in subsection (2) of this section.

Section 5. KRS 160.613 is amended to read as follows:

(1) There is hereby authorized a utility gross receipts license tax for schools not to exceed three percent (3%) of the gross receipts derived from the furnishing, within the county, of telephonic and telegraphic communications services, electric power, water, and natural, artificial, and mixed gas. "Gross receipts" includes all amounts received in money, credits, property, or other money's worth in any form, as consideration for the furnishing of the above utilities, except that "gross receipts" shall not include amounts received for furnishing energy or energy-producing fuels, used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production, and shall not include amounts received for furnishing any of the above utilities which are to be resold.

(2) In the event that any user of telephonic and telegraphic communications services, electrical power, water, and natural, artificial, or mixed gas purchases the telephonic and telegraphic communications services, electrical power, water, and natural, artificial, or mixed gas directly from any supplier who is exempt either by state or federal law from the utility gross receipts license tax under the provisions of subsection (1) of this section, then the consumer, if such tax has been levied in his district, shall be liable for the tax and shall pay directly to the county finance officer, in accordance with the provisions of KRS 160.615, a utility gross receipts license tax for schools computed by multiplying the gross cost of all telephonic and telegraphic communications services, electrical power, water, and natural, artificial, or mixed gas received by the tax rate levied under the provisions of this section.

(3) "Gross cost" shall mean the total cost of the telephonic and telegraphic communications, electrical power, water, and natural, artificial, or mixed gas including the cost of the tangible personal property and any services associated with obtaining the telecommunication and telegraphic services or tangible personal property, such as gas, electricity, and water, regardless from whom purchased.

(4) The tax imposed by this section shall apply to mobile telecommunications services as defined in 4 U.S.C. sec. 124 only if the customer's place of primary use is within the jurisdictional boundaries of the taxing jurisdiction. The provisions of 4 U.S.C. secs. 116 to 126 are hereby adopted and incorporated by reference.

(5) If a customer believes that a tax, charge, fee, or assignment of place of primary use or taxing jurisdiction on a bill is incorrect, the customer shall notify the home service provider about the alleged error in writing. This notification shall

include the street address for the customer's place of primary use, the account name and number for which the customer seeks a correction, a description of the alleged error, and any other information that the home service provider reasonably requires. Within sixty (60) days of receiving the customer's notification, the home service provider shall either correct the error and refund or credit all taxes, charges, and fees incorrectly charged to the customer within four (4) years of the customer's notification, or explain to the customer in writing how the bill was correct and why a refund or credit will not be made.

(6) A customer shall not have a cause of action against a home service provider for any erroneously collected taxes, charges, or fees until the customer has exhausted the procedure set forth in subsection (5) of this section.

Section 6. Sections 1 to 5 of this Act take effect for customer service bills issued after August 1, 2002.

The Committee on State Government reported **HB 129** with Committee Substitute attached thereto, **HB 289, HB 444** with Committee Amendment attached thereto, **HB 584, HB 622, HB 624, HB 643** with Committee Substitute attached thereto, **HB 648** with Committee Amendment attached thereto, **HB 659** with Committee Substitute attached thereto, **SB 45,** and **SB 61** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 129, AN ACT relating to price controls.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

(1) The Governor may, in writing, determine that an act or event which occurs within or without the boundaries of the Commonwealth but which occurs within the boundaries of the United States or its possessions or territories is an act of war, an act of terrorism, an event affecting the national security of the United States, or an event affecting the security of the Commonwealth and that it is in the interest of public health and safety to protect the public against price increases as a result of the named act or event.

(2) In the event that the Governor determines that an act or event is within the purview of subsection (1) of this section the Governor may issue a written executive order which freezes, at the price in effect immediately prior to the happening of the event specified in subsection (1) of this section, the price charged by a supplier or vendor of commodities, goods or services for any commodity, good or service specifically named in the order.

(3) Except as provided in this subsection, a price frozen under the provisions of this section shall remain frozen for a period specified in the executive order of the Governor, not to exceed seven (7) days.

(a) The Governor may, in writing, rescind an order issued under this section, in whole or in part, prior to the expiration of the seven (7) day period.

(b) The Governor may upon the expiration of a previous order issued pursuant to this section extend, in writing, an order issued under this section for an additional period of seven (7) days. The prior order may be extended in whole or in part.

(c) The Governor may keep such orders in effect for a period not to exceed twenty-one (21) days total and after that time no new order or extension shall be made or shall be valid with regard to the same act or event specified in the initial order.

(4) During the period specified in an order issued pursuant to this section no person shall increase the price charged for a good, commodity, or service named in the executive order above that price charged immediately prior to the happening of the act or event specified in the executive order. The price charge for a named good, commodity, or service may be lowered.

(5) The Attorney General, Commonwealth's attorney, and county attorney shall have concurrent jurisdiction for the enforcement of the provisions of this section. Any peace officer may issue a citation for a violation of this section.

(6) In addition to any other remedy provided for a violation of this section the Attorney General, Commonwealth's attorney, or county attorney may:

(a) Bring a criminal action for a violation of KRS Chapter 39A;

(b) Bring an action for a violation of KRS 367.170 or other consumer protection statute;

(c) Seek a temporary restraining order or injunction enjoining violation of this section;

(d) Seek restitution and reimbursement for persons who were charge prices in excess of those allowed under an order issued pursuant to this section; or

(e) Any combination of these remedies.

The Committee Substitute to **HB 129** is as follows:

HB 129, AN ACT relating to price controls.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Commodity" means any goods, services, materials, merchandise, supplies, equipment, resources, or other article of commerce, and includes, but is not limited to, food, water, ice, chemicals, petroleum products, and lumber.

(b) "Unconscionable" means an act or conduct which is willful and is so harsh and unjust as would be condemned or considered to be wrongful and would be shocking to the conscience of honest and fair-minded persons.

(c) It is prima facie evidence that a price is unconscionable if:

1. The amount charged represents a gross disparity between the price of the commodity or rental or lease of any dwelling unit or self-storage facility that is the subject of the offer or transaction and the average price at which that commodity or dwelling unit or self-storage facility was rented, leased, sold, or offered for rent or sale in the usual course of business during the thirty (30) days immediately prior to a declaration of a state of disaster or emergency, and the increase in the amount charged is not attributable to additional costs incurred in connection with the rental or sale of the commodity or rental or lease of any dwelling unit or self-storage facility, or national or international market trends; or

2. The amount charged grossly exceeds the average price at which the same or similar commodity was readily obtainable in the trade area during the thirty (30) days immediately prior to a declaration of a state of disaster or emergency, and the increase in the amount charged is not attributable to additional costs incurred in connection with the rental or sale of the commodity or rental or lease of any dwelling unit or self-storage facility, or national or international market trends.

(2) The Governor may, in writing, confirm that an act or event which occurs within or without the boundaries of the Commonwealth but which occurs within the boundaries of the United States or its possessions or territories is an act of terrorism, an event affecting the national security of the United States, and thereby the security of the Commonwealth and that it is in the interest of public health and safety to protect the public against unconscionable price increases as a result of the named act or event.

(3) In the event that the Governor confirms that an act or event is within the purview of subsection (2) of this section the Governor may issue a written executive order declaring an emergency, making it unlawful and a violation of KRS 367.170 for a person or his or her agent or employer to rent or sell at an unconscionable price any commodity defined in subsection (1)(a) or the rental or lease of any dwelling unit or self-storage facility.

(4) This section shall not apply to sales by growers, producers, or processors of raw or processed food products, except for retail sales of such products to the ultimate consumer within the area of the declared state of disaster or emergency.

(5) Except as provided in this subsection, the Governor's executive order shall remain in effect for a period not to exceed seven (7) days.

(a) The Governor may, in writing, rescind an order issued under this section, in whole or in part, prior to the expiration of the seven (7) day period.

(b) The Governor may upon the expiration of a previous order issued pursuant to this section extend, in writing, an order issued under this section for an additional period of seven (7) days. The prior order may be extended in whole or in part.

(c) The Governor may keep such orders in effect for a period not to exceed twenty-one (21) days total and after that time no new order or extension shall be made or shall be valid with regard to the same act or event specified in the initial order.

(6) The Attorney General shall have jurisdiction for the enforcement of the provisions of this section.

(7) In addition to any other remedy provided for a violation of this section the Attorney General may:

(a) Bring an action for a violation of KRS 367.170 or other consumer protection statute;

(b) Seek a temporary restraining order or injunction enjoining violation of this section;

(c) Seek restitution and reimbursement for persons who were charging prices in excess of those allowed under an order issued pursuant to this section; or

(d) Any combination of these remedies.

HB 289, AN ACT relating to recommendations for capital construction programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.760 is amended to read as follows:

The provisions of any other law notwithstanding:

(1) The head of each of the three (3) branches of government shall include in the branch budget recommendation and in the draft branch budget bill for his branch submitted to each even-numbered-year regular session of the General Assembly pursuant to KRS 48.130, for the biennium period beginning July 1, 1994, and for each biennium thereafter, a recommended state capital projects program and a recommended program for the purchase of major items of equipment.

(2) The recommended capital construction program shall include:

(a) A complete list and summary description of each specific capital construction project recommended for funding during the biennium; and

(b) For each project:

1. The agency and purpose for which it will be used;
2. The justification for the project;
3. Its estimated completion date;
4. The total estimated cost of completing the project;
5. The estimated cost of the project during the biennium;
6. The recommended sources of funds for the entire project; and
7. The dollar amounts recommended for appropriation and the dollar amounts, listed by source, that are anticipated from every other source of funds for the biennium.

If the recommendation includes a project that is to be constructed over multiple bienniums, the recommendation shall clearly describe the work and associated costs for each biennium. The recommendation shall specify that if future amounts for the project are not provided the amount recommended for the current biennium is sufficient to complete an independently functional project, and shall describe how that project addresses needs of the user agency.

(3) All information required by subsection (2) of this section shall be included in each branch budget recommendation. Each branch budget bill shall contain only a complete list of the specific capital construction projects recommended for funding during the biennium and, for each project, the information specified in subparagraphs 5., 6., and 7. of subsection (2)(b) of this section.

(4) A report which details the effect of recommended new debt on the debt position of the Commonwealth shall be submitted at the same time the recommended capital program is submitted. Information shall be presented separately, and in total, for the general fund, the road fund, and for any affected restricted fund account.

(5) Information in the report shall include, but not be limited to, the following:

(a) Debt service on existing appropriation-supported debt as a percent of anticipated total revenues;

(b) Debt service on existing appropriation-supported debt as a percent of anticipated available revenues;

(c) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of anticipated total revenues;

(d) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of anticipated available revenues;

(e) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of estimated state total personal income; and

(f) The sum of existing appropriation-supported debt and recommended new appropriation-supported debt, as a percent of estimated state total personal income.

(6) During any biennium beginning July 1, 1992, and during each biennium thereafter, the amount allotted, from all sources, for expenditure on any project in the state capital construction program for that biennium shall not exceed the estimated cost of the project during that biennium, as shown in any branch budget bill, statutory budget memorandum, and biennial budget report enacted by the General Assembly, except as provided in this section, KRS 45.770, and 45.780.

(7) The recommended program for the purchase of major items of equipment, submitted by the head of each of the three (3) branches of government, shall include:

(a) A complete list and summary description of each specific major item of equipment recommended for purchase during the biennium; and

(b) For each major item of equipment:

1. The agency and purpose for which it will be used;
2. The justification for the purchase;

3. The estimated cost of the item, including ancillary expenses and any expenses necessary to make the equipment functional and operational;

4. The recommended sources of funds; and

5. The dollar amounts recommended for appropriation and anticipated from every other source of funds for the purchase.

(8) All information required by subsection (5) of this section shall be included in the executive branch budget recommendation. The branch budget bill for the executive branch shall contain only a complete list of each specific item of major equipment recommended for purchase during the biennium and, for each item, the information specified in subparagraphs 3., 4., and 5. of subsection (7)(b) of this section.

(9) When the General Assembly disapproves a project or item of equipment that was previously approved, it shall be eliminated as a project or major item of equipment in the Capital Projects Program. General fund moneys appropriated for that project or item of equipment but not allotted, and general fund moneys allotted but not expended to the project or equipment account, shall be transferred to the capital construction and equipment purchase contingency account in the capital construction fund. Agency or federal funds for a disapproved project or item, that have been appropriated but unallotted or allotted but unexpended, shall be returned to the appropriate agency fund. Road fund moneys for a disapproved project or item that have been appropriated but unallotted or allotted but unexpended, shall be returned to the Road Fund Surplus Account.

(10) Projects and major items of equipment disapproved under subsection (9) of this section shall be terminated.

(11) During any biennium beginning July 1, 1992, and during each biennium thereafter, the amount allotted from all sources for expenditure for the purchase of any major item of equipment shall not exceed the estimated cost of the item as shown in any branch budget bill, statutory budget memorandum, and biennial budget report enacted by the General Assembly and authorizing the purchase, except as provided in subsections (12) and (13) of this section and in KRS 45.770 and 45.780.

(12) A major item of equipment to be used for medical, scientific, or research purposes, excluding computer equipment and aircraft, may be authorized even though it is not specifically listed in any branch budget bill, statutory budget memorandum, and biennial budget report enacted for the current biennium, subject to the following conditions and procedures:

(a) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be reallotted for expenditure on the item; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs;

(b) Funds are available for the purchase and the method of financing the purchase will not require an additional appropriation of state funds to acquire the item; and

(c) The purchasing agency shall, within thirty (30) days after making the purchase, report the purchase to the Capital Projects and Bond Oversight Committee. The report shall include a description of the item, the purpose for which it will be used, the necessity for the purchase, and the amount expended for the purchase from each source of funds used.

(13) Moneys from any source may be transferred to the allotment account of any capital project authorized by the General Assembly under this section, subject to the following conditions and procedures:

(a) The total amount transferred shall not exceed fifteen percent (15%) of the amount authorized by the General Assembly unless:

1. The source of funds is private or federal; or

2. An unforeseen decision by a federal or state court or regulatory agency requires the transfer.

(b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallotted for expenditure on the capital project.

(c) Moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs.

(d) The relevant entity head, or his designee, shall submit the capital project to the Capital Projects and Bond Oversight Committee at least fourteen (14) days prior to the committee meeting. The submission shall include a written certification to the committee that the transfer, in excess of fifteen percent (15%) of the amount authorized by the General Assembly, is:

1. Paid for out of private or federal funds; or

2. Required by an unforeseen decision by a federal or state court or regulatory agency; and

3. Not allotted or reallotted from moneys specifically budgeted and appropriated by the General Assembly for another purpose; and

4. Not jeopardizing any existing program and not requiring the use of any current general funds specifically dedicated to existing programs.

(e) If a capital project is financed with road funds, the cost overruns or scope increases shall be paid out of the highway contingency account established pursuant to KRS 45.247.

(14) A capital construction project or a major item of equipment may be authorized even though it is not specifically listed in any branch budget bill, statutory budget memorandum, and biennial budget report, subject to the following conditions and procedures:

- (a) Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds, and fifty percent (50%) or less of the actual cost shall be funded by moneys appropriated to the capital construction and equipment purchase contingency account or, if the purpose of the project or equipment is to reduce energy costs, the relevant entity head certifies projected energy cost savings associated with the project or equipment are reasonable and sufficient to produce an aggregate simple payback period, as defined by KRS 56.770, of five (5) years or less;
- (b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallotted for expenditure on the project or major item of equipment; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs; and
- (c) The relevant entity head, or his designee, shall submit the project or major item of equipment to the committee for review as provided by KRS 45.800.

(15) The capital construction and equipment purchase contingency fund may be used to advance funds to projects authorized to be financed by bonds, to finance feasibility studies for projects which may be contemplated for future funding, or to audit the capital projects program when authorized by the General Assembly.

(16) On or before October 1, each of the three (3) branches of government shall submit to the committee the following information:

- (a) A complete list and summary description of every capital construction project and major item of equipment not completed as of June 30 of the prior fiscal year; and
- (b) For each project and major item of equipment, as of July 1, of the current fiscal year:
  - 1. The project phase;
  - 2. The project account number, project name, and any other term employed to identify the project or major item of equipment;
  - 3. The available balance in the project or major item of equipment account, and any sums considered available for that project or major item of equipment;
  - 4. A statement of the transfers of funds to or from the project or major item of equipment account; and, any account to which transfers from each project or major item of equipment has been made;
  - 5. The year in which the project or major item of equipment was approved, with specific reference to the legislation by which the project or item was approved;
  - 6. Total expenditure on the project or major item of equipment;
  - 7. The current estimated completion cost, including the amount required for annual inflation; and
  - 8. A statement that additional funds for the completion of the project or major item of equipment are or are not required; and, if required, why sufficient funds for completion are not available; and
- (c) The balance in the appropriated, but unallotted account; and the balance in any account, however designated, that contains appropriated, but unallotted funds for capital construction.

(17) When the General Assembly authorizes a capital construction item in the capital construction section of a branch budget bill, the entity head charged with executing the branch budget shall construct the capital construction item according to the requirements set forth in the branch budget bill, statutory budget memorandum, supporting documentation considered by the General Assembly, and branch budget records. The entity head shall not deviate from these requirements with regard to:

- (a) Purpose or location to the extent that the capital construction item no longer meets the identified needs; or
- (b) Configuration for reasons other than practical accommodation to the construction site or specific program to be accommodated within that capital construction item.

HB 444, AN ACT relating to capital projects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and determines that protecting prior and future investments of public funds in state-owned facilities through planned major maintenance and capital repair of these facilities is of critical importance to the Commonwealth of Kentucky. The General Assembly further recognizes that arresting deterioration of existing state-owned facilities, limiting the effects of cost inflation associated with the deferral of necessary major maintenance and repair, and assuring that facilities comply with necessary health and safety requirements requires a proactive policy to protect the public

investment. It is the intent of the General Assembly to create and fund a capital renewal account for new facilities and a capital renewal account for existing facilities to finance major maintenance and capital repair of state-owned facilities.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) There is created within the capital construction fund the capital renewal account for new facilities. Moneys in the capital renewal account for new facilities shall only be expended for purposes of the major maintenance and capital repair of new facilities as defined in subsection (2) of this section. The capital renewal account for new facilities shall consist of moneys appropriated to the account by the General Assembly. Moneys in the account shall be invested in accordance with KRS 42.500. Separate allotments or project accounts shall be established to account for each facility.

(2) The capital renewal account for new facilities shall be used to fund the major maintenance and capital repair of any state-owned facility for which project authorization is recommended by a branch head beginning with the 2004-06 budget preparation cycle and as provided by the 2004 General Assembly or by a subsequent General Assembly that is:

(a) Acquired by a state agency or postsecondary institution by any means including construction, purchase, gift, or bequest, that has a value of four hundred thousand dollars ($400,000) or more; or

(b) An existing state-owned facility that has a value of four hundred thousand dollars ($400,000) or more for which the renovation cost is greater than fifty percent (50%) of the value of the facility as reflected in the Department for Facilities Management database.

(3) Beginning with the 2004-06 budget preparation cycle and continuing for each budget thereafter, the branch budget recommendation submitted to the General Assembly under KRS Chapter 48 shall include the following:

(a) For every facility as defined in subsection (2) of this section that is initially recommended for a budget unit, an amount equal to an annualized increment of two percent (2%) of the project scope shall be recommended for that budget unit for purposes of funding the capital renewal account for new facilities for that project; and

(b) After initial authorization and funding for each facility pursuant to paragraph (a) of this subsection, the branch budget recommendation submitted to the General Assembly under KRS Chapter 48 shall include a recommendation in subsequent bienniums to fund the capital renewal account for that facility at a level equal to an annualized increment of two percent (2%) of the project scope.

To the extent possible, the recommended source of funds for recommendations made under this section shall be from the same fund source, or represent the same proportion of fund sources, as the fund source for the recommended project authorization. Moneys from the general fund shall be used for projects authorized from general fund-supported debt. Restricted funds may be used for projects authorized from any other fund source. If funds are provided other than from the general fund to the capital renewal account for new facilities, such funds shall be transferred from the originating budget unit and credited to the discrete account established for the individual facility.

(4) No facility as defined in subsection (2) of this section shall be authorized for construction absent an appropriation to the capital renewal account for new facilities of an amount equal to the annualized increment of two percent (2%) of the project scope.

(5) Projects that are not authorized during a Regular or Extraordinary Session of the General Assembly and that are established pursuant to KRS 45.760(14) shall be subject to the provisions of Sections 1 to 3 of this Act for purposes of establishing and funding that project in the capital renewal account for new facilities.

(6) If an authorized project is not constructed or is canceled, any amount from the general fund appropriated for the purpose of the capital renewal account for new facilities shall lapse. Any other funds appropriated for this purpose shall revert to their respective originating budget unit and fund source.

(7) Expenditures from a facility's project account shall be used solely for the purpose of major maintenance and repair projects costing four hundred thousand dollars ($400,0000) or more. Amounts in each facility's project account shall not be expended for a minimum of ten (10) years after initial project authorization.

(8) No expenditures shall be made from the capital renewal for new facilities account unless appropriated by the General Assembly.

(9) All sums appropriated or deposited to the capital renewal account for new facilities shall not lapse at the close of the fiscal year but shall carry forward into the next fiscal year and shall remain available solely for the purposes of this section.

(10) Notwithstanding the provisions of KRS 48.600, the capital renewal account for new facilities shall be exempt from any state budget reduction acts.

SECTION 3. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) There is created within the capital construction fund the capital renewal account for existing facilities. Moneys in the capital renewal account for existing facilities shall only be expended for major maintenance and capital repair of existing facilities owned by the Commonwealth of Kentucky. The capital renewal account for existing facilities shall consist of moneys appropriated to the account by the General Assembly. Moneys in the account shall be invested in accordance with KRS 42.500.

(2) The capital renewal account for existing facilities shall be used to fund the major maintenance and capital repair of

any facility that is owned by the Commonwealth of Kentucky and has a value of four hundred thousand dollars ($400,000) or more unless the facility is managed or administered by the following:

(a) Postsecondary institutions;

(b) Transportation Cabinet;

(c) Entities that finance one hundred percent (100%) of their costs from other than the general fund, including but not limited to the Kentucky Housing Corporation, the Kentucky Lottery Corporation, the Kentucky Higher Education Student Loan Corporation, the Kentucky Higher Education Assistance Authority, and the Kentucky Department for Fish and Wildlife Resources; or

(d) Entities that are authorized by statute to establish facility-generated revenues to be used for major maintenance and capital repair or improvements, capital replacement, and debt service, including but not limited to the Kentucky Center for the Arts, Northern Kentucky Convention Center, Berea Artisans Center, and the Eastern Kentucky Exposition Center.

(3) The branch budget recommendation submitted to the General Assembly under KRS Chapter 48 shall include a recommendation to fund the capital renewal account for existing facilities from the general fund at an amount equal to a percentage of the total value of all facilities defined in subsection (2) of this section in each fiscal year, as follows: one-half of one percent (0.5%) in fiscal year 2004-05; one percent (1.0%) in fiscal year 2005-06; one and one-half percent (1.5%) in fiscal year 2006-07; and two percent (2.0%) in fiscal year 2007-08 and every subsequent fiscal year.

(4) Expenditures from the capital renewal account for existing facilities shall be used solely for the purpose of major maintenance and repair projects costing four hundred thousand dollars ($400,0000) or more. There shall be a minimum balance of no less than five million dollars ($5,000,000) in the account at the end of each fiscal biennium.

(5) No expenditures shall be made from the capital renewal account for existing facilities unless appropriated by the General Assembly.

(6) A five (5) member Capital Renewal Review Panel is established for the purpose of reviewing and making recommendations on projects proposed to be financed from the capital renewal account for existing facilities as documented in the six (6) year capital plans submitted under KRS Chapter 7A. The panel's review of projects in the six (6) year capital plans shall include a prioritized listing of projects that are recommended to be financed from the capital renewal account for existing facilities and an explanation of the criteria upon which the recommendations are based. The report shall be transmitted to the Capital Planning Advisory Board and the state budget director by June 30 of each odd-numbered year for use in the state capital planning and budgeting processes. Members of the panel shall be appointed jointly by the secretary of the Finance and Administration Cabinet and the state budget director, and shall consist of:

(a) A representative of the Governor's Office for Policy and Management;

(b) A representative of the Department for Facilities Management; and

(c) Three (3) representatives with expertise in facilities management from three (3) state agencies eligible to receive appropriations from the account.

(7) All sums appropriated or deposited to the capital renewal account for existing facilities shall not lapse at the close of the fiscal year but shall carry forward into the next fiscal year and shall remain available solely for the purposes of this section.

(8) Notwithstanding the provisions of KRS 48.600, the capital renewal account for existing facilities shall be exempt from any state budget reduction acts.

The Committee Amendment No. 1 to **HB 444** is as follows:

On page 5, line 8, after the word "*value*" by inserting the following "*, as reflected in the Department for Facilities Management database,*".

HB 584, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.691 is amended to read as follows:

(1) *(a)* Effective August 1, 1996, and on July 1 of each year thereafter, a recipient of a retirement allowance under KRS 16.510 to 16.652 and KRS 61.515 to 61.705 and KRS 78.520 to 78.852 shall have his retirement allowance increased by the percentage increase in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the federal Bureau of Labor Statistics, not to exceed five percent (5%). In determining the annual employer contribution rate, only the cost of increases granted as of the most recent valuation date shall be recognized. The benefits of this subsection as provided on August 1, 1996 and thereafter shall not be considered as benefits protected by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in

their judgment the welfare of the Commonwealth so demands.

(b) On July 1, 2002, in addition to, and after the award of, the annual increase described in paragraph (a) of this subsection, each recipient of a retirement allowance from a retirement system administered by the Kentucky Retirement Systems shall receive an allowance increase based on the number of months that the recipient has been drawing a retirement allowance, according to the following schedule:

Number of Payments Received	***Percentage Increase***
1-36	***0***
37-48	***3%***
49-60	***4%***
61-72	***5%***
73-84	***6%***
85-96	***7%***
97-108	***8%***
109-120	***9%***
121-132	***10%***
133 and over	***12%***

The increase shall become part of the base allowance for purposes of calculating future annual allowances.

(2) A reemployed retired member whose payments are suspended as provided under KRS 61.637 shall be eligible for an increase in his suspended retirement allowance as provided under this section, computed as if he were receiving the retirement allowance at the time the increase under this section is effective.

HB 622, AN ACT relating to the Judicial Form Retirement System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 21.425 is amended to read as follows:

(1) In any circumstances in which a surviving spouse would be entitled to any allowance under KRS 21.420, but there is no surviving spouse or the surviving spouse subsequently dies, and there is a surviving child or children of the member under the age of twenty-one (21), ***or there is a disabled child or children,*** the monthly allowance that the surviving spouse would have received or was receiving shall be continued***, as follows:***

(a) If the member does not have a disabled~~[for the benefit of such]~~ child or children***, the benefit shall continue until there are no children*** remaining ~~[under the age of twenty-one (21) until there are none]~~ under the age of twenty-one (21)***; or***

(b) If the member has a disabled child or children, the benefit shall continue until the death of the last remaining disabled child.

(2) A member may designate his child or children under the age of twenty-one (21)***, or his disabled child or children,*** to receive the death benefit payable under KRS 21.420 instead of his spouse, or he may designate that his spouse shall receive a percentage of the death benefit, and his child or children under the age of twenty-one (21)***, or his disabled child or children,*** shall receive the remainder. The member making such a choice shall designate his beneficiary or beneficiaries in writing to the manager of the Judicial Form Retirement System on a form provided by the manager.

(3) For purposes of this section, "disabled" means an individual determined by the Social Security Administration to be entitled to total disability benefits.

HB 624, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 48.005 is amended to read as follows:

(1) The General Assembly hereby finds and declares that:

(a) Public accountability for funds or other assets recovered in a legal action by or on behalf of the general public, the Commonwealth, or its duly elected statewide constitutional officers is appropriate and required, whether the character of the assets or funds recovered is public or private;

(b) Accountability for assets or funds recovered by duly elected statewide constitutional officers is essential to the public trust, and is even more critical when that officer was a party to the action that resulted in the recovery by virtue of the public office he or she holds;

(c) Public accountability demands the applicability of the Kentucky Open Records Law, KRS 61.870 to 61.884, and the Kentucky Open Meetings Law, KRS 61.805 to 61.850, so that the actions of individuals or agencies who are charged with the administration of funds or other assets are conducted in full view, and are open to public scrutiny;

(d) The General Assembly recognizes that the Attorney General of the Commonwealth of Kentucky has filed or been a party to actions by virtue of the public office he holds, and has recovered certain assets or funds of approximately forty-five million dollars ($45,000,000), plus interest, for or on behalf of the citizens of the Commonwealth in the cases of Commonwealth of Kentucky, ex rel., Attorney General, Albert B. Chandler, III v. Anthem Insurance Companies, Inc., Southeastern Group, Inc., Southeastern United Medigroup, Inc., Franklin Circuit Court, Division I, Civil Action No. 97-CI-01566, and Southeastern United Medigroup, Inc., Southeastern Group, Inc., and Anthem Insurance Companies, Inc., v. Commonwealth of Kentucky, Department of Insurance, Franklin Circuit Court, Division II, Civil Action No. 97-CI-00405;

(e) The terms of the settlement of those actions referenced in subsection (1)(d) of this section serve a public purpose and require that the proceeds of settlement be used "to address the unmet health care needs of Kentucky citizens";

(f) In accordance with the terms of the settlement referenced in subsection (1)(d) of this section, a foundation has been or is to be formed and appointments to that foundation made after receiving recommendations from an advisory board whose appointments will be made from nominees of the Attorney General;

(g) While it may be important that, in certain circumstances, funds or assets received retain their character, identity, and purpose, it is also important that the process by which funds are administered and the individuals named to serve on the advisory board and the foundation in the settlement referenced in subsection (1)(d) of this section be open to public scrutiny and be required to make reports and be accountable to the public; and

(h) The power to appropriate funds for public purposes is solely within the purview of the legislative branch of government, and the General Assembly, as a steward of the budgetary process, shall take steps to assure that future settlements are handled in a manner that assures maximum accountability to the citizens of the Commonwealth and their duly elected legislative representatives.

(2) Therefore, any other provision of the common law or statutory law to the contrary notwithstanding:

(a) The provisions of subsection (3) of this section shall apply to the settlement referenced in subsection (1)(d) of this section, and to the advisory board, corporation, organization, foundation, charitable trust, constructive trust, board, commission, or entity, created by court order or otherwise, to administer the settlement proceeds to provide for the "unmet health care needs of Kentucky citizens"; and

(b) Except for the settlement referenced in subsection (1)(d) of this section, the provisions of subsection (4) of this section shall apply whenever the Attorney General or other duly elected statewide constitutional officer is a party or has entered his appearance in a legal action on behalf of the Commonwealth of Kentucky, including ex rel. or other type actions, and a disposition of that action has resulted in the recovery of funds or assets to be held in trust by the Attorney General or other duly elected statewide constitutional officer or a person, organization, or entity created by the Attorney General or the Commonwealth, through court action or otherwise, to administer the trust funds or assets, for charitable, eleemosynary, benevolent, educational, or similar public purposes;

(c) Except as otherwise provided in paragraphs (a) and (b) of this subsection, the provisions of subsection (5) of this section shall apply when any funds or assets of any kind or nature whatsoever, including, but not limited to, public funds as defined in KRS 446.010 and private funds or assets are recovered by judgment or settlement of a legal action by or on behalf of the Commonwealth of Kentucky, including ex rel. or other type actions filed by a duly elected statewide constitutional officer under that officer's statutory or common law authority.

(3) The advisory board, corporation, organization, foundation, charitable trust, constructive trust, board, commission, or entity, created by court order or otherwise, in accordance with the settlement outlined in subsection (1)(d) of this section, shall be deemed a public trust, and shall:

(a) Be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884, and the Kentucky Open Meetings Act, KRS 61.805 to 61.850;

(b) Be audited on an annual basis by the Auditor of Public Accounts;

(c) Provide any records, documents, written reports, and audits to the Governor, Auditor of Public Accounts, and the Legislative Research Commission, as may be requested;

(d) Provide representatives of the organization or entity to testify before any committee of the General Assembly, when requested, concerning the work and financial condition of the organization or entity;

(e) Encourage the Franklin Circuit Court to authorize the Governor to appoint two (2) at-large members to the board of directors of the foundation created by the settlement agreement; and

(f) Provide written notice of any disbursement of funds or assets to the co-chairs of the Interim Joint Committee on Appropriations and Revenue, the secretary of the Finance and Administration Cabinet, and the state controller at least fourteen (14) days prior to making disbursement. Within forty-five (45) days after receipt of the notice of disbursement of funds or assets in accordance with this subsection, the Interim Joint Committee on Appropriations and Revenue may hold a hearing on the disbursement. If requested by the Interim Joint Committee on Appropriations and Revenue, members of the advisory board, corporation, organization, foundation, charitable trust, constructive trust, board, commission, or entity making disbursement and the person, organization, or other entity receiving the disbursement shall appear and give testimony concerning the proposed disbursement. Following the hearing, the Interim Joint Committee on Appropriations and Revenue shall make findings concerning whether or not the disbursement:

1. Is consistent with the nature, character, and purpose for which the funds were recovered; and
2. Is in the best interest of the Commonwealth.

A copy of the findings shall be publicly released and mailed or otherwise delivered to the entity or organization seeking disbursement, the secretary of the Finance and Administration Cabinet, and the state controller.

(4) Except for the settlement referenced in subsection (1)(d) of this section, whenever the Attorney General or other duly elected statewide constitutional officer is a party to or has entered his appearance in, a legal action on behalf of the Commonwealth of Kentucky, including ex rel. or other type actions, and a disposition of that action has resulted in the recovery of funds or assets to be held in trust by the Attorney General or other duly elected statewide constitutional officer or by a person, organization, or entity created by the Attorney General, or the Commonwealth, through court action or otherwise, to administer the trust funds or assets, for charitable, eleemosynary, benevolent, educational, or similar public purposes, those funds shall be deposited in the State Treasury and the funds or assets administered and disbursed by the Charitable Asset Administration Board created under this section. As used in this section "CAAB" means the Charitable Asset Administration Board.

(a) The CAAB shall consist of the following members, who shall be confirmed by the Senate under KRS 11.160, and who shall serve at the pleasure of the duly elected statewide constitutional officer making the appointment during that constitutional officer's term of office:

1. Three (3) members to be appointed by the Governor;
2. Three (3) members to be appointed by the Attorney General; and
3. Three (3) members to be appointed by the Auditor of Public Accounts.

(b) Each duly elected statewide constitutional officer under paragraph (a) of this subsection shall appoint at least one (1) member who has a background in the administration of charitable, eleemosynary, benevolent, educational, or similar type trust assets, but shall not be currently involved in any activity that would violate the provisions of KRS 11A.040, as they relate to the performance of the appointee's duties on the CAAB.

(c) All appointees to the CAAB shall comply with the provisions of the Executive Branch Code of Ethics found in KRS Chapter 11A.

(d) A vacancy in the membership of the CAAB shall be filled in the same manner and under the same conditions as the initial appointment to the board.

(e) The CAAB shall:

1. Be a nonprofit, de jure, quasi-governmental corporation subject to the Kentucky Open Records Law, KRS 61.870 to 61.884, and Kentucky Open Meetings Law, KRS 61.800 to 61.850;
2. Have any and all general corporate, trust, or other powers reasonable or necessary to fulfill the requirements and purposes of the CAAB;
3. Be audited on an annual basis by the Auditor of Public Accounts;
4. Provide any documents, written reports, and audits to the Legislative Research Commission as may be requested; and
5. Provide representatives of the organization or entity to testify before any committee of the Kentucky General Assembly when requested concerning the work and financial condition of the CAAB.

(f) The CAAB shall have full authority over the administration, control, and disbursement of any funds recovered under this subsection. The CAAB shall receive, analyze, administer, disburse, and preserve the identity, character, and nature and the charitable, eleemosynary, benevolent, educational, or similar public purpose of the funds or assets received consistent with this subsection and the authority for administering the funds recovered as set forth in the:

1. Articles of incorporation and bylaws of the corporation;
2. Partnership agreement or other business association agreement;
3. Contractual agreement;
4. Governing documents of the public or private foundation;
5. Charitable trust documents;
6. Terms of the constructive trust;
7. Orders of a state or federal court;
8. State or federal law or regulation; or
9. Any other governing documents necessary to properly administer the funds recovered.

(g) The CAAB may hold public hearings, if necessary, concerning the proper administration or disbursement of trust assets received and to be administered under this subsection.

(h) 1. After April 21, 2000, all charitable, eleemosynary, benevolent, educational, or similar type trust funds or assets, to which this subsection applies, recovered by way of judgment, settlement, or otherwise, shall be transferred to the CAAB for administration of those funds or assets consistent with their charitable, eleemosynary, benevolent, educational, or similar public purpose and the provisions of this subsection.

2. For those legal actions settled prior to April 21, 2000, except for the settlement outlined in subsection (1)(d) of this section to which subsection (3) of this section shall apply, where charitable, eleemosynary, benevolent, educational, or similar type trust funds or assets, are recovered by way of judgment or settlement, and to which this subsection would otherwise be applicable, the federal and state courts where those actions are pending are encouraged to transfer any trust funds or assets remaining after administration to the CAAB.

(i) The CAAB shall be attached to the Finance and Administration Cabinet for administrative purposes.

(5) (a) Any other provision of the common law or statutory law to the contrary notwithstanding, and except as otherwise provided in this section, any funds or assets of any kind or nature whatsoever, including, but not limited to, public funds as defined in KRS 446.010 and private funds or assets when recovered by judgment or settlement of a legal action by or on behalf of the Commonwealth of Kentucky, including ex rel. or other type actions filed by a duly elected statewide constitutional officer under that officer's statutory or common law authority shall be deemed public funds, and shall be deposited into an account maintained by the Finance and Administration Cabinet.

(b) No funds to which this subsection applies when deposited in an account maintained by the Finance and Administration Cabinet shall be disbursed without a specific legislative appropriation of the deposited funds by the General Assembly while in regular or special legislative session.

(6) The common law, including the common law authority of any duly elected statewide constitutional officer, is specifically abrogated to the extent it is inconsistent with the provisions of this section.

(7) The provisions of this section shall not apply to actions by or on behalf of the Commonwealth or its duly elected statewide constitutional officers, if the recovery sought and received is for specific individuals identified as parties to the action either by individual Social Security number, other individual identifying number, or by the individual's proper name.

(8) Notwithstanding any statute or common law to the contrary, and except as provided in this subsection, an elected statewide constitutional officer or any other state official or agency shall not file or participate as a plaintiff, petitioner, party, intervening party, attorney, or amicus curiae in any litigation challenging the constitutionality of this section. State funds and employee time shall not be expended by any person or agency in support of such a challenge. If the constitutionality of this section is challenged, the Finance and Administration Cabinet shall be the sole named respondent in that litigation, and shall consult with the Legislative Research Commission regarding defense of that litigation.

Section 2. The General Assembly confirms executive Order 2001-534, dated May 1, 2001, to the extent it is not otherwise confirmed by this Act.

HB 643, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the Kentucky State Energy Policy Advisory Board which shall plan and develop a coordinated statewide energy policy hereafter referred to as "board". The board shall be composed of fifteen (15) members appointed by the Governor as follows:

(a) A designee of the Governor;

(b) The secretary of the Natural Resources and Environmental Protection Cabinet;

(c) The secretary of the Public Protection and Regulation Cabinet or his or her designee;

(d) The secretary of the Economic Development Cabinet or his or her designee;

(e) The chairman of the Public Service Commission;

(f) The director of the Division of Energy, Department of Natural Resources;

(g) The director of the Kentucky Center for Applied Energy and Research, University of Kentucky or his or her designee; and

(h) Eight (8) at-large members.

(2) The Governor shall appoint the chairperson of the board, who shall serve at the pleasure of the Governor.

(3) The eight (8) at-large members shall initially be appointed for staggered terms and thereafter shall serve four (4) year terms. The at-large members shall be as follows:

(a) One (1) representative of the Kentucky coal industry;

(b) Two (2) representatives of the Kentucky utility industry;

(c) One (1) representative of industrial facilities;

(d) One (1) representative of the interests of the oil and gas industry;

(e) One (1) consumer;

(f) One (1) environmental advocate; and

(g) One (1) representative of the United States Enrichment Corporation in Western Kentucky.

(4) Any vacancy of one (1) of the at-large members shall be filled in the same manner provided in the initial appointment to the board. Appointment of a new at-large member shall be for the remainder of the unexpired term.

(5) No member of the board shall receive a salary, fee, or other remuneration for services as a member of the board, but each member shall be reimbursed for travel expenses incurred in the performance of duties as a board member.

(6) The board shall be attached to the Public Service Commission for administrative purposes. The Public Service Commission may hire an executive director for the board, provide staffing assistance as necessary, and expend appropriated funds on behalf of the board.

(7) The board shall meet as it deems appropriate.

(8) The board may impose reasonable reporting requirements on state agencies and on private entities in the business of supplying energy and energy services to consumers to provide information the board deems necessary to enable the board to carry out its responsibilities.

Section 2. The General Assembly hereby confirms Executive Order 2001-607, dated May 16, 2001; Executive Order 2001-772, dated June 19, 2001; and Executive Order 2001-889, dated July 11, 2001, which establish the Kentucky State Energy Policy Advisory Board, to the extent that the Executive Orders are not otherwise confirmed by this Act.

The Committee Substitute to **HB 643** is as follows:

HB 643, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the Kentucky State Energy Policy Advisory Board which shall plan and develop a coordinated statewide energy policy hereafter referred to as "board". The board shall be composed of seventeen (17) members appointed by the Governor as follows:

(a) A designee of the Governor;

(b) The secretary of the Natural Resources and Environmental Protection Cabinet;

(c) The secretary of the Public Protection and Regulation Cabinet or his or her designee;

(d) The secretary of the Economic Development Cabinet or his or her designee;

(e) The chairman of the Public Service Commission;

(f) The director of the Division of Energy, Department of Natural Resources;

(g) The director of the Kentucky Center for Applied Energy and Research, University of Kentucky or his or her designee; and

(h) Ten (10) at-large members.

(2) The Governor shall appoint the chairperson of the board, who shall serve at the pleasure of the Governor.

(3) The ten (10) at-large members shall initially be appointed for staggered terms and thereafter shall serve four (4) year terms. The at-large members shall be as follows:

(a) One (1) representative of the Kentucky coal industry;

(b) Two (2) representatives of the Kentucky utility industry;

(c) One (1) representative of industrial facilities;

(d) One (1) representative of the interests of the oil and gas industry;

(e) Two (2) consumers;

(f) One (1) environmental advocate;

(g) One (1) representative of the United States Enrichment Corporation in Western Kentucky; and

(h) One (1) member from the Municipal Electric Power Association of Kentucky.

(4) Any vacancy of one (1) of the at-large members shall be filled in the same manner provided in the initial appointment to the board. Appointment of a new at-large member shall be for the remainder of the unexpired term.

(5) No member of the board shall receive a salary, fee, or other remuneration for services as a member of the board, but

each member shall be reimbursed for travel expenses incurred in the performance of duties as a board member.

(6) The board shall be attached to the Public Service Commission for administrative purposes. The Public Service Commission may hire an executive director for the board, provide staffing assistance as necessary, and expend appropriated funds on behalf of the board.

(7) The board shall meet as it deems appropriate.

(8) The board may impose reasonable reporting requirements on state agencies and on private entities in the business of supplying energy and energy services to consumers to provide information the board deems necessary to enable the board to carry out its responsibilities.

Section 2. The General Assembly hereby confirms Executive Order 2001-607, dated May 16, 2001; Executive Order 2001-772, dated June 19, 2001; and Executive Order 2001-889, dated July 11, 2001, which establish the Kentucky State Energy Policy Advisory Board, to the extent that the Executive Orders are not otherwise confirmed by this Act.

HB 648, AN ACT relating to the Personnel Board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.0551 is amended to read as follows:

(1) (a) Elections to the board shall be scheduled every four (4) years on or before July 1. The ***board***~~[cabinet]~~ shall provide written notification of the date of the election to all classified employees on or before May 1; and

(b) Upon receipt of the notification provided for by paragraph (a) of this subsection, an employee wishing to serve on the board shall notify the ***board***~~[cabinet]~~, in writing, no later than June 1. This notification shall be notarized and shall include the candidate's name, address, Social Security number, job classification, and length of state employment. It shall also include the name and address of his current employer.

(2) On the last working day of May, the cabinet shall certify a payroll ***listing to the board*** that is current on such day and that contains the name, Social Security number, and home address of every classified employee.

(3) At least fifteen (15) working days prior to the election provided for in subsection (1) of this section, the ***board***~~[cabinet]~~ shall mail to each classified employee whose name appeared on the payroll ***listing*** certified by the ***cabinet***~~[department]~~ at his home address:

(a) A list of candidates for election to the board, in alphabetical order, with a brief biography following the name of each candidate;

(b) Instructions for voting;

(c) A ballot listing the names of all candidates for election to the board in alphabetical order and providing a blank space next to each name; and

(d) Two (2) envelopes for returning the ballot. Prior to mailing the envelopes to a state employee, one (1) envelope shall be addressed by the ***board***~~[cabinet]~~ to the impartial third party selected by the ***board***~~[cabinet]~~ to receive, validate, and tabulate the ballots at a post office box rented by the ***board***~~[cabinet]~~ for the election. The upper left corner of the preaddressed or outer envelope shall contain a sufficient number of blank lines and spaces to permit an employee to print his name and address. The upper left corner of the second or inner envelope shall contain a sufficient number of blank lines and spaces to permit an employee to print his name, address, Social Security number, the date, and to affix his signature.

(4) Upon receipt of his ballot, a classified employee wishing to participate in the election provided for in subsection (1) of this section shall:

(a) Vote for no more than two (2) candidates;

(b) Mark his ballot by placing a mark in the blank space next to the name of the candidate for whom he is casting his vote;

(c) Print his name and address in the upper left corner of the preaddressed or outer envelope provided by the ***board***~~[cabinet]~~;

(d) Print his name, address, Social Security number, the date, and affix his signature in the upper left corner of the second or inner envelope provided by the ***board***~~[cabinet]~~;

(e) Seal his ballot in the second or inner envelope; and

(f) Seal the second or inner envelope in the preaddressed or outer envelope, affix a stamp to it, and post it.

(5) The ***board***~~[cabinet]~~ shall:

(a) Select an impartial third party to receive, validate, and tabulate all returned ballots as provided by this subsection and subsection (6) of this section;

(b) Acquire a post office box to which all ballots shall be mailed; and

(c) Provide the impartial third party with a computer generated list of the names and Social Security numbers of eligible voters, with the names of the eligible voters in numerical sequence as determined by their Social Security numbers. The names and Social Security numbers listed on the list shall correspond to those appearing on the payroll certified by the cabinet under subsection (2) of this section.

(6) The impartial third party selected by the ***board***~~[cabinet]~~ shall collect all ballots, unopened, from the post office box. It shall:

(a) Examine the postmark on each envelope;

(b) Set aside, unopened, any preaddressed or outer envelope postmarked with a date subsequent to the deadline provided for by this section;

(c) Remove the second or inner envelope from the preaddressed or outer envelope;

(d) Verify the name and Social Security number on the second or inner envelope by comparing them to the computer generated list of names and Social Security numbers of eligible voters provided by the cabinet;

(e) Set aside, unopened, any second or inner envelope containing a name and Social Security number that does not match the name and Social Security number appearing next to the name on the computer generated list;

(f) Tabulate the ballots by electronic data entry in duplicate, provided that ballots in envelopes specified in paragraphs (b) and (e) of this subsection shall not be counted;

(g) Compare the total tabulated vote with the total number of eligible employees appearing on the computer generated list provided by the cabinet;

(h) Return the ballots; envelopes, including envelopes that have not been opened; and other election material to the ***board***~~[cabinet]~~; and

(i) Certify to the ***board***~~[cabinet]~~:

1. That the tabulation does not include two (2) or more ballots with the same Social Security number;

2. The total number of ballots received;

3. The total number of ballots not included in the tabulation, and the reason each such ballot was not included in the tabulation;

4. The total number of ballots included in the tabulation; and

5. The total vote for each candidate.

(7) For at least sixty (60) days after the completion of the tabulation provided for by subsection (6) of this section, the ballots, envelopes, and other election materials provided for by this section shall be public record and open to inspection***, but the home addresses and Social Security numbers of the eligible employees and voters shall be redacted prior to public inspection or disclosure***.

(8) The two (2) candidates receiving the greatest number of votes shall be declared the successful candidates. In the event of a tie vote, the tie shall be broken by a coin toss in the presence of the candidates receiving the tie vote.

(9) Successful candidates shall be notified by the ***board***~~[cabinet]~~ no later than five (5) working days after the election. Successful candidates shall take office immediately upon notification.

(10) State employees shall not use state materials or equipment for any purpose related to the election of classified employees to the board, nor shall any activity related to the election of a classified employee to the board be conducted during working hours.

Section 2. KRS 18A.245 is amended to read as follows:

(1) The authority shall be administered by a board of trustees composed of seven (7) members, who shall be as follows:

(a) Secretary, Finance and Administration Cabinet, ex officio;

(b) Secretary of personnel, ex officio;

(c) The state controller, ex officio; and

(d) Four (4) at-large members appointed by the Governor, one (1) of whom shall have at least five (5) years of investment or banking experience and one (1) of whom shall be a representative of a nonstate government employer.

(2) The members of the board appointed by the Governor shall serve for a period of four (4) years and the ex officio members of the board shall serve only for the period of their term of office.

(3) Any vacancy which may occur shall be filled in the same manner provided for the selection of the particular member for a full term. Vacancies shall be filled for the unexpired term only.

(4) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists, and no member shall be subject to removal from office, except upon conviction of a felony, or of a misdemeanor involving moral turpitude.

(5) Board members who do not otherwise receive a salary or compensation from the State Treasury shall receive a per diem of ***one hundred dollars ($100)***~~[forty-five dollars ($45)]~~ for each day they are in session or on official duty, and they shall be

reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards applicable to state employees.

(6) The board shall meet at least once in each quarter of the year, and may meet in special session upon the call of the chairman. It shall elect a chairman and a vice chairman. A majority of the members shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the members present.

(7) The ***authority***~~[Personnel Cabinet]~~ shall~~[perform the administrative functions of the board, which shall]~~ be attached to the ***Personnel*** Cabinet for ***administrative*** purposes~~[of administration]~~ only. The board may ***take***, but is not limited to the following actions:

(a) Appoint such employees as it deems necessary and fix the compensation for all employees of the board, subject to the approval of the secretary. The executive director of the authority and employees appointed by the board shall serve at its will and pleasure. All other staff of the authority shall be employed under KRS 18A.005 to 18A.200;

(b) Require such employees as it thinks proper to execute bonds for the faithful performance of their duties;

(c) Establish a system of accounting;

(d) Contract for such services as may be necessary for the operation or administration of deferred compensation plans authorized in KRS 18A.230 to 18A.275, including annual audits;

(e) Do all things, take all actions, and adopt plans for participation consistent with federal ***law***~~[requirements]~~ and with the provisions of KRS 18A.230 to 18A.275***, including but not limited to:***

1. Amending the board's plan for the Kentucky Public Employees 401(k) Deferred Compensation Plan or the Kentucky Employees 457 Deferred Compensation Plan, or both such plans, to adopt, maintain, and terminate a deemed IRA program under Internal Revenue Code Section 408;

2. Amending the board's plan for the Kentucky Public Employees 401(k) Deferred Compensation Plan to adopt, maintain, and terminate a qualified Roth contribution program under Internal Revenue Code Section 402A; and

3. Adopting, maintaining, and terminating an Internal Revenue Code Section 403(b) plan for qualified employees.

(8) The Attorney General, or an assistant designated by him, may act as legal adviser and attorney for the board. The board may also appoint legal counsel in accordance with KRS Chapter 12.

(9) The board shall prepare an annual financial report showing all receipts, disbursements, assets, and liabilities and shall submit a copy to the Governor and the Legislative Research Commission. All board meetings and records shall be open for inspection by the public.

The Committee Amendment No. 1 Title to **HB 648** is as follows:

Amend title to read "AN ACT relating to state personnel.".

HB 659, AN ACT relating to consolidated local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

If a cooperative compact exists between a city of the first class and its county prior to the creation of a consolidated local government, upon the establishment of the consolidated local government, the mayor of the consolidated local government shall assume all board and agency appointment authority previously held by the county judge/executive and the mayor of the consolidating governments. Appointments to boards and agencies made by the mayor should reflect the diversity of the population within the jurisdiction of the consolidated local government.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provision to the contrary, any statute which confers any rights, powers, privileges, immunities, or responsibilities upon the county judge/executive in a county formerly containing a city of the first class and presently having a consolidated local government, is hereby deemed to confer such rights, powers, privileges, immunities, and responsibilities upon the mayor of the consolidated local government.

(2) Any statute which confers any rights, powers, privileges, immunities, or responsibilities upon a fiscal court in a county formerly containing a city of the first class and now having a consolidated local government, is hereby deemed to confer such rights, powers, privileges, immunities, and responsibilities upon the officer or officers in whom such functions are vested in the consolidated local government by KRS 67C.103(1) and 67C.105(1), respectively. This provision applies to the general statutes applicable to counties, as well as applying to statutes applicable only within a county formerly containing a city of the first class.

SECTION 3. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise provided by law, any elected officer of a consolidated local government in case of misconduct, incapacity, or willful neglect in the performance of the duties of his or her office may be removed from office by the legislative council, sitting as a court, under oath, upon charges preferred by the mayor or by any five (5) members of the legislative council, or, in case of charges against the mayor, upon charges preferred by not less than ten (10) members of the legislative council. No legislative council member preferring a charge shall sit as a member of the legislative council when it tries that charge.

(2) No elected officer shall be removed without having been given the right to a full public hearing.

(3) A decision to remove a mayor or legislative council member shall require a vote of two-thirds (2/3) of the total number of legislative council members sitting as a court.

(4) Any elected officer removed from office under the provisions of this section may appeal to the Circuit Court and from there to the Court of Appeals. The appeal to the Circuit Court shall be taken and tried in the same manner as civil cases are tried.

(5) No elected officer removed from office under this section shall be eligible to fill the office vacated before the expiration of the term to which the elected member was originally elected.

SECTION 4. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

The territory of a consolidated local government may, as permitted by Section 172A of the Constitution of Kentucky, be divided into service districts. Each service district shall constitute a separate tax district within which the consolidated local government may, upon receipt of a petition signed by a majority of the registered voters in the district as of the last general election, levy and collect taxes in accordance with the kind, type, and character of the services provided by the consolidated local government in each of these service districts. A consolidated local government may abolish or alter service districts, but any expansion of the boundaries of a service district shall require a petition signed by a majority of the registered voters, as of the last election, in the new territory to be included in the service district. Notwithstanding the foregoing provision, a consolidated local government may not create or change the boundaries of a service district if that change would adversely affect the powers or functions of any city, existing taxing district, fire protection district, water district, or any other special taxing or service district of any kind which was in existence on the date the consolidated local government became effective unless such entity consents by resolution adopted by its governing body.

SECTION 5. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) In order to maintain the tax structure, tax rates, or level of services in the area of the consolidated local government formerly comprising the city of the first class, the legislative council of a consolidated local government may provide in the manner described in this chapter for taxes and services within the area comprising the former city of the first class which are different from the taxes and services which are applicable in the remainder of the county. These differences may include differences in tax rates upon the class of property which includes the surface of the land, differences in ad valorem tax rates upon personal property, and differences in tax rates upon insurance premiums.

(2) Any difference in the ad valorem tax rate on the class of property which includes the surface of the land in the portion of the county formerly comprising the city of the first class and in the portion of the county other than that formerly comprising the city of the first class may be imposed directly by the consolidated local government council. Any change in these ad valorem tax rates shall comply with KRS 68.245, 132.010, 132.017, and 132.027 and shall be used for services as provided by KRS 82.085.

(3) If the consolidated local government council determines to provide for tax rates applicable to health insurance premiums and personal property which are different in the area formerly comprising the city of the first class than the rates applicable in the remainder of the county, it shall do so in the following manner. The consolidated local government council shall by ordinance create a tax district to be known as the "urban service tax district" bounded by the former boundaries of the former city of the first class. The ordinance shall designate the number of members of the board of this taxing district and the manner in which they shall be appointed. The ordinance shall provide that the board of the taxing district shall receive the income derived from the differential in tax rate applicable in the area formerly comprising the city of the first class with respect to personal property, health insurance premiums, or both, and shall contract with the consolidated local government to pay all sums collected to the consolidated local government, in return for the provision of services performed by the consolidated local government within the area formerly comprising the city of the first class which services are in addition to services performed by the consolidated local government in the remainder of the county.

(4) After the initial formation of an urban service taxing district in a consolidated local government, the boundaries of the district may be modified in the following manner. The proposal to alter the boundaries of the urban service taxing district within a consolidated local government may be initiated by:

(a) A resolution enacted by the consolidated local government describing the boundaries of the area to be added to or deleted from the taxing district and duly passed and signed by the mayor not less than one hundred twenty (120) days before the next regularly scheduled election day within the county; or

(b) A petition signed by a number of qualified voters living within precincts within the area to be added to or deleted from the taxing district equal to ten percent (10%) of the votes cast within each precinct in the last general election for President of the United States and delivered to the clerk of the legislative council more than

one hundred twenty (120) days next preceding the next regularly scheduled election day within the county.

The boundaries so described in either case shall not cross precinct lines. The question of whether the area bounded as described should be added to or deleted from, as the case may be, the urban services taxing district shall then be placed upon the ballot in the precincts in the area to be added or deleted at the next regular election and the question stated on the ballot shall be so phrased that a "Yes" vote shall be cast in favor of making the proposed change and a "No" vote shall be cast to oppose the proposed change. If a majority of those voting in those precincts support the change, then the change in the boundaries of the urban service district shall be implemented.

Section 6. KRS 15A.305 is amended to read as follows:

(1) The Department of Juvenile Justice shall, with available funds, develop and administer a statewide detention program and, as each regional facility is constructed and ready for occupancy, shall, within appropriation limitations, provide for:

(a) The operation of preadjudication detention facilities for children charged with public offenses; and

(b) The operation of postadjudication detention facilities for children adjudicated delinquent or found guilty of public offenses.

Funds appropriated for the purposes of this section shall only be used for facilities defined in KRS 15A.200.

(2) In each region in which the Department of Juvenile Justice operates or contracts for the operation of a detention facility, the department shall, within appropriation limitations, develop and administer a program for alternatives to detention that shall provide for:

(a) The operation of or contracting for the operation of preadjudication alternatives to detention and follow-up programs for children who are before the court and who enter pretrial diversion or informal adjustment programs; and

(b) The operation of or contracting for the operation of postadjudication alternatives to detention and follow-up programs, including but not limited to community-based programs, mentoring, counseling, and other programs designed to limit the unnecessary use of secure detention and ensure public safety.

(3) The department shall, except as provided in KRS 635.060, charge counties***, consolidated local governments,*** and urban-county governments a per diem not to exceed ninety-four dollars ($94) for lodging juveniles in state-owned or contracted preadjudication facilities.

(4) Detention rates charged by contracting detention facilities shall not exceed the rate in effect on July 1, 1997, subject to increases approved by the department.

(5) The Department of Juvenile Justice shall issue and enforce administrative regulations to govern the following:

(a) Administration;

(b) Intake and classification;

(c) Programs and services;

(d) Recordkeeping;

(e) Rules and discipline;

(f) Transfers;

(g) Reimbursement rates and conditions; and

(h) Detention facility rate increases.

(6) No juvenile detention facility or juvenile holding facility shall be taken over, purchased, or leased by the Commonwealth without prior approval of the fiscal court upon consultation with the jailer in the county where the facility is located. The county, upon consultation with the jailer, may enter into contracts with the Commonwealth for the holding, detention, and transportation of juveniles.

(7) Administrative regulations promulgated under subsection (5) of this section shall specifically identify new requirements of the law which increase the cost of operating a juvenile facility not operated by the Department for Juvenile Justice. The administrative regulations shall identify the amount and source of funding for compliance with the new requirements.

Section 7. KRS 15.760 is amended to read as follows:

(1) Each Commonwealth's attorney shall, during the calendar year 1977 and through June 30, 1978, be entitled to at least the number of assistant Commonwealth's attorney positions, stenographic, secretarial and clerical staff positions, investigative and other personnel positions, which he had or was entitled to at the number and salary level in effect on December 1, 1976.

(2) The number of assistant Commonwealth's attorney positions, stenographic, secretarial and clerical staff positions, investigative and other personnel positions, shall be based on real need to be determined with the advice and consent of the Prosecutors Advisory Council.

(3) All assistant Commonwealth's attorneys shall be licensed practicing attorneys. The full-time assistant Commonwealth's attorneys shall not be allowed to engage in the private practice of law.

(4) All salaries paid to personnel appointed hereunder shall be paid from the State Treasury. The salaries shall be

commensurate with the appointee's education, experience, training and responsibility, and be based upon the guidelines established by the Prosecutors Advisory Council, which guidelines shall be comparable with the classification and compensation plan for comparable positions maintained by the state Personnel Cabinet, pursuant to KRS 64.640.

(5) The fiscal court***, consolidated local government,*** or urban-county government in the county or counties that comprise the judicial circuit shall be responsible for providing the office of the Commonwealth's attorney with an adequate grand jury room and witness rooms.

(6) (a) Each Commonwealth's attorney shall be authorized to employ individually or jointly with one or more other Commonwealth's attorneys at least one (1) victim advocate to counsel and assist crime victims as defined in KRS 421.500.

(b) An individual employed as a victim advocate shall be a person who by a combination of education, professional qualification, training, and experience is qualified to perform the duties of this position. The victim advocate shall be an individual at least eighteen (18) years of age, of good moral character, with at least two (2) years of experience working in the human services field or court system in a position requiring professional contact with children or adults, who has:

1. Received a baccalaureate degree in social work, sociology, psychology, guidance and counseling, education, religion, criminal justice, or other human service field; or

2. Received a high school diploma or equivalency certificate, and, in addition to the experience required in this subsection, has at least four (4) years' experience working in the human services field or court system.

(c) Each Commonwealth's attorney who employs an individual to serve as a victim advocate shall develop a written job description which describes the duties of the position and shall ensure the victim advocate completes training relating to the appropriate intervention with crime victims, including victims of domestic violence. Each victim advocate shall perform those duties necessary to insure compliance with the crime victim's bill of rights contained in KRS 421.500 to 421.530. No victim advocate shall engage in political activities while in the course of performing his duties as victim advocate or the practice of law as defined in KRS 524.130. The creation and funding of any new personnel position shall be reviewed and approved by the Prosecutors Advisory Council.

Section 8. KRS 31.185 is amended to read as follows:

(1) Any defending attorney operating under the provisions of this chapter is entitled to use the same state facilities for the evaluation of evidence as are available to the attorney representing the Commonwealth. If he considers their use impractical, the court concerned may authorize the use of private facilities to be paid for on court order by the county.

(2) The ***consolidated local government,*** fiscal court of each county***,*** or legislative body of an urban-county government shall annually appropriate twelve and a half cents ($0.125) per capita of the population of the county, as determined by the Council of Local Governments' most recent population statistics, to a special account to be administered by the Finance and Administration Cabinet to pay court orders entered against counties pursuant to subsection (1) of this section. The funds in this account shall not lapse and shall remain in the special account.

(3) The Finance and Administration Cabinet shall pay all court orders entered pursuant to subsection (1) of this section from the special account until the funds in the account are depleted. If in any given year the special account including any funds from prior years is depleted and court orders entered against counties pursuant to subsection (1) of this section for that year or any prior year remain unpaid, the Finance and Administration Cabinet shall pay those orders from the Treasury in the same manner in which judgments against the Commonwealth and its agencies are paid.

(4) Only court orders entered after July 15, 1994, shall be payable from the special account administered by the Finance and Administration Cabinet or from the Treasury as provided in subsections (2) and (3) of this section.

Section 9. KRS 39B.020 is amended to read as follows:

(1) The county judge/executive of each county, the mayor of each city***, consolidated local government,*** or urban-county government, or the chief executive of other local government, within thirty (30) days of assuming office following their election, shall appoint a local emergency management director who meets all qualifications criteria pursuant to KRS Chapters 39A to 39F, and shall immediately notify the director of the Division of Emergency Management of the appointment.

(2) ***Except in a county containing a consolidated local government,*** in lieu of appointing a separate local emergency management director for each jurisdiction, the county judge/executive of a county and mayors of cities or urban-county governments, or the chief executive of other local government located within the territorial boundaries of the same county may jointly appoint a single local emergency management director who meets all the qualifications criteria pursuant to KRS Chapters 39A to 39F. It is the policy of the Division of Emergency Management to encourage and support the joint appointment of a single local director in each territorial county of the Commonwealth. The duly appointed local emergency management director shall direct, control, and manage all the affairs of the local emergency management agency and comprehensive emergency management program of the jurisdictions wherein appointed.

(3) A local emergency management director appointed under the provisions of subsections (1) or (2) of this section shall serve at the pleasure of the appointing authority, but shall serve not longer than four (4) years without reappointment and, in addition to any local requirements, shall meet the qualification requirements listed in this subsection:

(a) The local director shall be a high school graduate with an additional three (3) years of experience in business administration, government planning, industrial, or commercial planning, public safety, management of emergency services, or related community or governmental service. Management level experience may not be substituted for high school education. Education at an accredited college or university may be substituted for experience on a year-for-year basis.

(b) The local director shall be a resident of the Commonwealth of Kentucky and the county served.

(c) The local director shall hold no partisan elective office, nor file for, seek, or campaign for any partisan elective office while holding the position of local emergency management director.

(d) The local director shall be routinely available to respond to emergency scenes, command posts, or emergency operations centers to coordinate emergency response of all local public and private agencies and organizations; to perform necessary administrative, planning, and organizational duties; to complete and submit required reports, records, emergency operations plans, and documents; to attend required training; and attend meetings convened by the appointing authority or the area manager of the division.

1. If the local director is also a full-time or part-time employee of the federal or state government, the local director shall have written authorization from the appropriate appointing authority to hold the position of local emergency management director and to fully comply with the provisions of paragraph (d) of this subsection. A copy of the written authorization shall be submitted to the division at the time of appointment.

2. If the local director is also a full-time or part-time employee of a city, county, urban-county government or charter county government in another capacity, that government shall enact an official city or county order or ordinance specifying that the individual appointed as local emergency management director shall fully comply with the provisions of paragraph (d) of this subsection. The order or ordinance shall also specify that the individual, when performing the duties of local emergency management director, shall relinquish all authorities and responsibilities associated with any other governmental employment and shall indicate another person, by name or position, to assume those authorities and responsibilities until such time as the local director shall cease to function as local emergency management director. A copy of the enacted order or ordinance shall be submitted to the division at the time of appointment. The city, county, or urban-county government, or charter county government shall not seek reimbursement from the division for the local director's salary for any time spent in another capacity.

3. If the local director is also a full-time or part-time employee in the private sector, the local director shall have a letter from each employer stating that the local director shall, without penalty or exception, be permitted to fully comply with the provisions of paragraph (d) of this subsection. A copy of the letter from each employer shall be submitted to the division at the time of appointment.

4. If the local director is self-employed, the local director shall certify at the time of appointment, by letter to the director of the division, that the local director's schedule shall permit full compliance with the provisions of paragraph (d) of this subsection.

(4) A local director whose salary has been reimbursed by the division prior to January 1, 1994, shall not be subject to the provisions of subsection (3)(a) of this section, so long as remaining continuously in that position for the appointing jurisdiction.

(5) A local director whose salary is reimbursed in part or in full by the Division of Emergency Management pursuant to KRS 39C.010 and 39C.020, shall also meet any other requirements of KRS Chapters 39A to 39F and any requirements which may be imposed by the Federal Emergency Management Agency, or its successor.

Section 10. KRS 39C.050 is amended to read as follows:

Local emergency management agencies created pursuant to KRS 39B.010 shall be eligible to apply for benefits from the fund created pursuant to KRS 39C.010 and 39C.020 if they meet the following criteria:

(1) The local emergency management agency shall have a qualified, duly-appointed local director who is capable of fully executing the duties of the position pursuant to KRS 39B.030. Unless the local director has already completed an introductory emergency management course or is determined by the director to be suitably qualified, during the first year of participation in the funding program, the local director, whether serving on a voluntary or paid basis, shall have successfully completed all correspondence courses specified by the division by administrative regulation. The local director shall also participate in an emergency management workshop when offered. Unless the local director has already completed an introductory emergency management course or is determined by the director to be suitably qualified, each local director shall also attend an introductory emergency management course when offered.

(a) In each following year, each local director shall attend an emergency management workshop, when offered.

(b) In subsequent years, a local director shall continue his or her education by annually completing advanced instruction offered by the division, including the training courses and the Emergency Management Development Program as required by administrative regulations promulgated by the division. The requirements of this section may be met by successfully completing related courses offered by federal agencies and other organizations, as approved by the division.

(2) Each local emergency management agency employee, other than the local director, whose salary is reimbursed in part by this fund, shall attend one (1) emergency management workshop at least every other year, and shall complete other instruction offered by the division as required by administrative regulations promulgated by the division.

(3) The local director appointed pursuant to KRS Chapters 39A to 39F, shall develop a local emergency operations plan and appropriate annexes. This plan shall be subject to concurrence review by the director of the division. In subsequent years, the plan and all annexes shall annually be reviewed, updated, approved, and officially adopted in accordance with the provisions of KRS Chapters 39A to 39F.

(4) During the second and each subsequent year of participation in the program, the local director shall conduct an exercise to test the local emergency operations plan in accordance with exercise program requirements and guidelines of the Federal Emergency Management Agency or the division.

(5) Each local emergency management agency created pursuant to KRS Chapters 39A to 39F shall provide for an organized and designated emergency operating center in the local jurisdiction from which all operations of the local disaster and emergency services organization shall be coordinated. This center shall provide resources for communications, information management, and other operational capabilities necessary to ensure the coordination of all disaster and emergency response in the local jurisdiction. The local emergency operations center shall be a direction and control component of the integrated emergency management system of the Commonwealth.

(6) Each local emergency management agency shall develop, and submit annually to the division, a program paper detailing agency administrative data, current staff personnel listings, a specific work plan of program objectives scheduled for accomplishment during the next fiscal year, and a budget request. Forms and guidance materials for this report shall be provided by the division.

(7) Each employee of a local emergency management agency created pursuant to this chapter with the exception of the local director and each deputy, if the deputy functions in a policymaking capacity, whose salary is reimbursed in part or in total with these funds, shall meet the standards of the Kentucky merit system, or the standards of the federal Office of Personnel Management or its successor or local equivalent, when recognized by the director.

(8) In order for a local emergency management agency to participate in the funding program, one (1) of the following persons shall attend an annual emergency management workshop:

(a) The county judge/executive;

(b) The deputy county judge/executive;

(c) The mayor of an urban-county government***, or of a consolidated local government,*** or ***of*** the largest city in the county, or the mayor of the city which is the county seat of the county, or the chief executive of other local government;

(d) The city manager;

(e) The local emergency management deputy director; or

(f) A member of the fiscal court***,***[~~ or~~] urban-county council***, or consolidated local government*** of the county.

(9) The division shall determine by administrative regulation:

(a) Public officials and disaster and emergency services personnel who may be reimbursed for attendance at emergency management workshops or other activities; and

(b) Reimbursements for attending courses and workshops, which shall be limited as follows:

1. Reimbursement rates for meals and travel mileage shall not exceed those for state employees.

2. Reimbursement shall be made for attending the workshop or course nearest to the participant's residence. A participant may attend a workshop at a greater distance but will be reimbursed for meals and mileage equal to that of attending the nearest workshop or course. In cases of extreme hardship, the nearest course or workshop requirement may be waived, in writing, by the director.

(10) The division shall:

(a) Publicize all available state and federal emergency management agency training courses to mayors, county judges/executive, and local directors; and

(b) Assist local personnel listed in this section in gaining entrance to state and federal emergency management agency training courses.

(11) If, at any time, the director of the division determines that a local emergency management agency or a local director does not comply with the eligibility requirements of this section, the director shall notify that local director, and the appointing authorities, in writing, of the intent to deny financial assistance to the local emergency management agency. The local director shall have ten (10) working days to come into compliance or otherwise provide information to the director to justify eligibility for funding. If the director continues to determine that the local emergency management agency or the local director does not meet eligibility requirements, the local emergency management agency shall be ineligible for funds and the director shall notify the local director and the appointing authorities, of the determination. A local director

aggrieved by a decision of the director may appeal to the Franklin Circuit Court within twenty (20) days of the receipt of the director's decision. The court's review shall be from the record and shall not be de novo.

Section 11. KRS 39F.200 is amended to read as follows:

Each local emergency management director shall assume the duties of, or appoint with the concurrence of the fiscal court, city governing body, urban-county council, ***consolidated local government,*** or governing body of other local government, a local search and rescue coordinator who shall be responsible for the coordination of all search and rescue resources and operations during all search and rescue missions within the city or county. The position of local search and rescue coordinator may be a volunteer position. The local search and rescue coordinator, if appointed by the local emergency management director, shall serve a similar term not to exceed four (4) years, but may be reappointed for a similar term upon the expiration of a previous term. The local search and rescue coordinator may be removed for cause at any time by the local director, with the concurrence of the fiscal court, city governing body, urban-county council or governing body of other local government. The local search and rescue coordinator shall successfully complete training in search management, search techniques, and incident command required by the division by administrative regulation.

Section 12. KRS 45A.345 is amended to read as follows:

As used in KRS 45A.343 to 45A.460, unless the context indicates otherwise:

(1) "Aggregate amount" means the total dollar amount during a fiscal year of items of a like nature, function, and use the need for which can reasonably be determined at the beginning of the fiscal year. Items the need for which could not reasonably be established in advance or which were unavailable because of a failure of delivery need not be included in the aggregate amount.

(2) "Capital cost avoidance" means moneys expended by a local public agency to pay for an energy conservation measure identified as a permanent equipment replacement and whose cost has been discounted by any additional energy and operation savings generated from other energy conservation measures identified in the guaranteed energy savings contract, except that for school districts capital cost avoidance shall also mean moneys expended by the district from one or more of the following sources:

  (a) General fund;

  (b) Capital outlay allotment under KRS 157.420; and

  (c) State and local funds from the Facilities Support Program of Kentucky under KRS 157.440.

(3) "Chief executive officer" means the mayor, county judge/executive, superintendent of schools, or the principal administrative officer of a local public agency, or the person designated by the chief executive officer or legislative body of the local public agency to perform the procurement function.

(4) "Construction" means the process of building, altering, repairing, or improving any public structure or building, or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

(5) "Contract" means all types of local public agency agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item. It includes awards and notices of award; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; and purchase orders. It also includes supplemental agreements with respect to any of the foregoing. It does not include labor contracts with employees of local public agencies.

(6) "Document" means any physical embodiment of information or ideas, regardless of form or characteristic, including electronic versions thereof.

(7) "Established catalogue price" means the price included in the most current catalogue, price list, schedule, or other form that:

  (a) Is regularly maintained by the manufacturer or vendor of an item; and

  (b) Is either published or otherwise available for inspection by customers; and

  (c) States prices at which sales are currently or were last made to a significant number of buyers constituting the general buying public for that item.

(8) "Evaluated bid price" means the dollar amount of a bid after bid price adjustments are made pursuant to objective measurable criteria, set forth in the invitation for bids, which affect the economy and effectiveness in the operation or use of the product, such as reliability, maintainability, useful life, residual value, and time of delivery, performance, or completion.

(9) "Invitation for bids" means all documents, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in KRS 45A.365.

(10) "The legislative body or governing board" means a council, commission, or other legislative body of a city***, consolidated local government,*** or urban-county; a county fiscal court; board of education of a county or independent school district; board of directors of an area development district or special district; or board of any other local public agency.

(11) "Local public agency" means a city, county, urban-county, ***consolidated local government,*** school district, special district,

or an agency formed by a combination of such agencies under KRS Chapter 79, or any department, board, commission, authority, office, or other sub-unit of a political subdivision which shall include the offices of the county clerk, county sheriff, county attorney, coroner, and jailer.

(12) "May" means permissive. However, the words "no person may . . ." mean that no person is required, authorized, or permitted to do the act prescribed.

(13) "Negotiation" means contracting by either the method set forth in KRS 45A.370, 45A.375, or 45A.380.

(14) "Noncompetitive negotiation" means informal negotiation with one (1) or more vendor, contractor, or individual without advertisement or notice.

(15) "Objective measurable criteria" means sufficient information in the invitation to bid as to weight and method of evaluation so that the evaluation may be determined with reasonable mathematical certainty. Criteria which are otherwise subjective, such as taste and appearance, may be established when appropriate.

(16) "Person" means any business, individual, union, committee, club, or other organization or group of individuals.

(17) "Procurement" means the purchasing, buying, renting, leasing, or otherwise obtaining any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any public procurement, including description of requirements, selection, and solicitation of sources, preparation and award of contract, and all phases of contract administration.

(18) "Request for proposals" means all documents, whether attached or incorporated by reference, utilized for soliciting proposals in accordance with the procedures set forth in KRS 45A.370, 45A.375, 45A.380, or 45A.385.

(19) "Responsible bidder or offeror" means a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.

(20) "Responsive bidder" means a person who has submitted a bid under KRS 45A.365 which conforms in all material respects to the invitation for bids, so that all bidders may stand on equal footing with respect to the method and timeliness of submission and as to the substance of any resulting contract.

(21) "Services" means the rendering, by a contractor, of its time and effort rather than the furnishing of a specific end product other than reports which are merely incidental to the required performance of service. It does not include labor contracts with employees of local public agencies.

(22) "Shall" means imperative.

(23) "Specifications" means any description of a physical or functional characteristic of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

(24) "Supplemental agreement" means any contract modification which is accomplished by the mutual action of the parties.

(25) "Supplies" means all property, including but not limited to leases on real property, printing, and insurance, except land or a permanent interest in land.

(26) "Energy conservation measure" means a training program or facility alteration designed to reduce energy consumption or operating costs, and may include one (1) or more of the following:

(a) Insulation of the building structure or systems within the building;

(b) Storm windows or doors, caulking or weatherstripping, multiglazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption;

(c) Automated or computerized energy control systems;

(d) Heating, ventilating, or air conditioning system modifications or replacements;

(e) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made;

(f) Energy recovery systems;

(g) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;

(h) Energy conservation measures that provide long-term operating cost reductions; or

(i) Any life safety measures that provide long-term operating cost reductions.

(27) "Guaranteed energy savings contract" means a contract for the evaluation and recommendation of energy conservation measures and for implementation of one (1) or more of those measures. The contract shall provide that all payments, except obligations on termination of the contract before its expiration, are to be made over time and the savings are guaranteed to the extent necessary to make payments for the cost of the design, installation, and maintenance of energy conservation measures.

(28) "Qualified provider" means a person or business experienced in the design, implementation, and installation of energy

conservation measures and is determined to be qualified by the local public agency. The qualified provider shall be responsible for and shall provide the local public agency with the following information regarding guaranteed energy savings contracts:

(a) Project design and specifications;
(b) Construction management;
(c) Construction;
(d) Commissioning;
(e) On-going services as required;
(f) Measurement and verification of savings for guaranteed energy savings contracts; and
(g) Annual reconciliation statements as provided in KRS 45A.352(8).

Section 13. KRS 61.080 is amended to read as follows:

(1) No person shall, at the same time, be a state officer, a deputy state officer or a member of the General Assembly, and an officer of any county, city***, consolidated local government,*** or other municipality, or an employee thereof.

(2) The offices of justice of the peace, county judge/executive, surveyor, sheriff, deputy sheriff, coroner, constable, jailer and clerk or deputy clerk of a court, shall be incompatible, the one (1) with any of the others. The office of county judge/executive and county school superintendent are incompatible.

(3) No person shall, at the same time, fill a county office and a municipal office. ***Notwithstanding the fact that consolidated local governments have both municipal and county powers, persons who hold the office of mayor or legislative council member of a consolidated local government shall not thereby be deemed to hold both a county office and a municipal office. Officers of consolidated local governments shall not, at the same time, fill any other county or municipal office.***

(4) No person shall, at the same time, fill two (2) municipal offices, either in the same or different municipalities.

(5) The following offices shall be incompatible with any other public office:

(a) Member of the Public Service Commission of Kentucky;
(b) Member of the Workers' Compensation Board;
(c) Commissioner of the fiscal court in counties containing a city of the first class;
(d) County indexer;
(e) Member of the legislative body of cities of the first class;
(f) ***Mayor and member of the legislative council of a consolidated local government;***
(g) Mayor and member of the legislative body in cities of the second class; and
(h)[~~(g)~~] Mayor and member of council in cities of the fourth class.

(6) No office in the Kentucky active militia shall be incompatible with any civil office in the Commonwealth, either state, county, district or city.

Section 14. KRS 61.210 is amended to read as follows:

(1) No justice of the peace, while he is a member of the fiscal court, shall, directly or indirectly:

(a) Become interested in or receive benefits or emoluments from any contract let by the fiscal court of his county with relation to the building of roads or any internal improvements;
(b) Work or supervise work, for compensation, on any public road, bridge, culvert, fill, quarry pit or any other road work or internal improvement under any contract made with the fiscal court; or
(c) Furnish, for compensation, any material to the county to be used in the construction of any road or bridge or other internal improvement.

(2) No county judge/executive***,***[~~ or~~] county attorney***, or mayor or council member of a consolidated local government*** shall, directly or indirectly, receive any benefits or emoluments from, furnish any material or other thing of value to be used in, or be interested in any contract let by the fiscal court ***or consolidated local government*** for, the construction of any roads, bridges or parts thereof, or any other public or internal improvement.

(3) Any officer who violates any of the provisions of this section shall be fined not less than fifty dollars ($50) nor more than two hundred dollars ($200) or imprisoned in the county jail not less than ten (10) nor more than forty (40) days, or both, and shall forfeit his office.

Section 15. KRS 61.220 is amended to read as follows:

(1) Any member of the fiscal court***, or any mayor or council member of a consolidated local government*** who becomes interested, directly or indirectly, in any contract for work to be done or material to be furnished for the county or any district thereof, or who becomes interested in any claim against the county shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each offense.

(2) If any county judge/executive***,***[~~ or~~] justice ***of the peace, or mayor or council member of a consolidated local government***

is, by the same act, guilty of a violation of this section and KRS 61.210, he shall be punished as provided in KRS 61.210.

Section 16. KRS 62.055 is amended to read as follows:

(1) Every county clerk, before entering on the duties of his office, shall execute bond to the Commonwealth, with corporate surety authorized and qualified to become surety on bonds in this state. Any county clerk holding office as of January 1, 1978, who has not executed bond as provided herein shall do so within thirty (30) days from February 9, 1978.

(2) In counties containing ***a consolidated local government or*** a city of the first class, the amount of the county clerk's bond shall be at least five hundred thousand dollars ($500,000). In counties containing a city of the second class ***but not containing consolidated local governments*** and ***in*** counties containing ***an*** urban-county form of government, the amount of county clerk's bond shall be at least four hundred thousand dollars ($400,000). In counties containing a city of the third class but not a city of the first or second class, ***a consolidated local government,*** or an urban-county form of government, the amount of the county clerk's bond shall be at least one hundred thousand dollars ($100,000). In counties containing a city of the fourth or fifth class, but not a city of the first, second, or third class, ***a consolidated local government,*** or an urban-county form of government, the amount of the county clerk's bond shall be at least seventy-five thousand dollars ($75,000). In counties containing a city of the sixth class, but not a city of the first, second, third, fourth, or fifth class, ***a consolidated local government,*** or an urban-county form of government, the amount of the county clerk's bond shall be at least fifty thousand dollars ($50,000).

(3) The bond of the county clerk shall be examined and approved by the fiscal court, which shall record the approval in its minutes. The fiscal court shall record the bond in the county clerk's records and a copy of the bond shall be transmitted within one (1) month to the Revenue Cabinet, where it shall be recorded and preserved. Except in those counties where the fees of the county clerk are paid into the State Treasury, the premium on the county clerk's bond shall be paid by the county.

(4) Where circumstances in a particular county indicate that the amount of the bond may not be sufficient, the Revenue Cabinet may request the fiscal court to increase the bond as provided in KRS 62.060. The fiscal court shall then require a bond of sufficient amount to safeguard the Commonwealth.

Section 17. KRS 63.220 is amended to read as follows:

(1) A vacancy in the office of sheriff, coroner, surveyor, county clerk, county attorney, jailer, or constable, shall be filled by the county judge/executive***, or by the mayor in a consolidated local government***.

(2) Appointments to fill vacancies under this section shall be until the successor is elected, as provided in Section 152 of the Constitution, and qualified.

Section 18. KRS 64.250 is amended to read as follows:

(1) ***Except for a county containing a consolidated local government,*** in counties containing a population of over two hundred fifty thousand (250,000), each justice of the peace shall be exclusively compensated for the performance of the duties of his office by a salary to be determined by the fiscal court at a rate no less than nine thousand six hundred dollars ($9,600) per annum but no greater than twelve thousand dollars ($12,000) per annum, which shall be paid, in equal monthly installments, out of the county treasury.

(2) The provisions of subsections (2), (3), and (4) of KRS 64.200 shall apply to justices of the peace in counties containing a population of over two hundred fifty thousand (250,000) ***except in a county containing a consolidated local government***, the same as to constables, and the recorder shall perform the same duties and functions in regard to moneys collected by or for justices of the peace as they are required by KRS 64.200 to perform in regard to moneys collected by or for constables.

Section 19. KRS 64.345 is amended to read as follows:

(1) The county clerk and sheriff of each county having a population of seventy thousand (70,000) or over shall receive an annual salary pursuant to the salary schedule in KRS 64.5275.

(2) In counties containing a city of the first class***,***[~~ and in counties having~~] an urban-county form of government***, or a consolidated local government***, the amount, if any, allowed for the necessary office expenses of each officer shall be approved by the fiscal court in counties containing a city of the first class***,***[~~ and~~] by the legislative body in counties containing an urban-county form of government***, or by the legislative council in a consolidated local government***. This approval shall be signed by the county judge/executive in a county containing a city of the first class***,***[~~ and by~~] the executive authority in a county having an urban-county form of government***, or the mayor in a consolidated local government***. Approval by the fiscal court[~~ or~~] urban-county legislative body***, or legislative council of a consolidated local government*** under this subsection shall not include oversight of expenditure of the funds. This oversight shall be retained by the Office of the Controller created pursuant to KRS 42.0201. In counties ***having a consolidated local government or*** containing a city of the first class, each sheriff's deputy who uses his own automobile in the performance of official duties shall be authorized an allotment for expenses incurred, up to a maximum of three hundred dollars ($300) per month, to be paid out of the fees and commissions of the sheriff's office. In all other counties with a population of seventy thousand (70,000) or more, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the Finance and Administration Cabinet.

(3) Each officer shall, on the first day of each month, send to the Finance and Administration Cabinet a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month as fees or compensation for official duties and shall, with these statements, send to the Finance and Administration Cabinet the amount so collected or received. The Finance and Administration Cabinet may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(4) The salary of each officer and his deputies and assistants and his office expenses shall be paid semimonthly by the State Treasurer upon the warrant of the Finance and Administration Cabinet made payable to the officer. If seventy-five percent (75%) of the amount paid into the State Treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the Finance and Administration Cabinet to any officer for salaries and expenses exceed seventy-five percent (75%) of the amount paid to the Finance and Administration Cabinet by the officer during his official term.

(5) In counties containing a city of the first class***,***[~~ and in counties having~~] an urban-county form of government***, or a consolidated local government***, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be approved at reasonable amounts upon motion of each officer by the fiscal court in counties containing a city of the first class***, by the legislative council in a consolidated local government,*** and by the legislative body in counties containing an urban-county form of government. This approval shall be signed by the county judge/executive in a county containing a city of the first class***,***[~~ and by~~] the executive authority in a county having an urban-county form of government***, or the mayor in a consolidated local government***. Approval by the fiscal court***,***[~~ or~~] urban-county legislative body***, or legislative council of a consolidated local government*** under this subsection shall not include oversight of expenditure of the funds. This oversight shall be retained by the Office of the Controller. In all other counties with a population of seventy thousand (70,000) or more, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the Finance and Administration Cabinet.

Section 20. KRS 64.350 is amended to read as follows:

(1) In counties having a population of seventy thousand (70,000) or more, the salaries of the county clerks and sheriffs and of their deputies and all necessary office expenses, including the equipping, furnishing, maintaining, and operation of the offices, shall be paid out of the State Treasury in amounts not to exceed seventy-five percent (75%) of the fees collected by the officers respectively, and received into the treasury; and twenty-five percent (25%) of the fees collected by the officers respectively, and received into the State Treasury shall be paid in the manner provided by law for the payment of other claims against the state to the fiscal courts***,***[~~ or~~] urban-county governments***, or consolidated local governments*** of the respective counties. The amount of twenty-five percent (25%) of the fees collected by the jailers during each calendar year shall be paid to the fiscal courts[~~ or~~] urban-county governments***, or consolidated local governments*** of the respective counties by April 1 of each year succeeding the calendar year during which the fees were received by the Finance and Administration Cabinet. The amount of twenty-five percent (25%) of the fees collected by the county clerks and sheriffs during each calendar year shall be paid to the fiscal courts***,***[~~ or~~] urban-county governments***, or consolidated local governments*** of the respective counties quarterly no later than April 15, July 15, October 15, and January 15. Each payment shall be for the preceding three (3) months during which fees were received by the Finance and Administration Cabinet. Adjustments necessary to insure that exactly twenty-five percent (25%) of fees collected are returned to the fiscal courts***,***[~~ or~~] urban-county governments***, or consolidated local governments*** shall be made in the January 15 payment. After payment of the salaries and expenses specified in this subsection, any remaining balance of the seventy-five percent (75%) of the fees collected by the officers respectively at the end of their official term shall be paid by the State Treasurer to the fiscal courts***,***[~~ or~~] urban-county ***governments, or consolidated local governments***[~~government~~] of the respective counties, subject to the provisions of subsection (2) of this section.

(2) Notwithstanding the provisions of subsection (1) of this section, all sums received into the State Treasury and representing seventy-five percent (75%) of the fees collected by the sheriffs specified in subsection (1) of this section from any county ***or consolidated local government*** in which a metropolitan correctional services department has been established shall be expended from the State Treasury for the payment of the salaries and costs specified in subsection (1) of this section, and in Section 106 of the Constitution of Kentucky. After payment of the salaries and costs specified in this subsection, the remaining balance representing fees collected by sheriffs shall be paid by the State Treasury to the fiscal court ***or to the consolidated local government*** of the county in which a metropolitan correctional services department has been established by April 1 of each year succeeding the calendar year in which the fees were received by the Finance and Administration Cabinet.

Section 21. KRS 64.5275 is amended to read as follows:

(1) The General Assembly of the Commonwealth of Kentucky hereby finds and determines that county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs in all counties are officers whose duties or jurisdictions are coextensive with that of the Commonwealth within the meaning of Section 246 of the Constitution of Kentucky.

(2) Effective on the first Monday in January of 1999, the maximum salary of county judges/executive, county clerks, jailers

who operate a full service jail, and sheriffs shall be fixed by the Department for Local Government according to a salary schedule in accordance with Section 246 of the Kentucky Constitution. The salary schedule provides that these officials, as officers whose jurisdiction or duties are coextensive with the Commonwealth, shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum as adjusted for any increase or decrease in the consumer price index and as described in subsection (4) of this section.

(3) The salary schedule for county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs in all counties provides for nine (9) levels of salary based upon the population of the county in the year prior to the election of county officials as determined by the United States Department of Commerce, Bureau of the Census's annual estimates. To implement the salary schedule, the Department for Local Government shall, by November 1 of each year preceding the election of county officials, certify for each county the population group applicable to each county based on the most recent estimates of the United States Department of Commerce, Bureau of the Census. For the purposes of this section, the salary schedule for county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs shall remain as determined by the Department for Local Government pursuant to this section, regardless of changes in the population estimates or the actual census count that may occur during the term for which the official has been elected or appointed. The salary schedule provides four (4) steps for yearly increments within each population group. County officers named in this section shall be paid according to the first step within their population group for the first year or portion thereof they serve in office. Thereafter, each officer, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. Prior to assuming office on the first Monday in January, 1999, or thereafter, any person assuming any of the offices for which the salary is determined by this section must certify to the commissioner of the Department for Local Government the total number of years, not to exceed four (4) years, that the person has previously served in the office. The department shall place the officer in the proper step based upon a formula of one (1) incremental step per full calendar year of service:

SALARY SCHEDULE

County Population by Group	Steps and Salary for Affected Officers			
Group I	Step 1	Step 2	Step 3	Step 4
0-4,999	$ 6,600	$ 6,800	$ 7,000	$ 7,200
Group II				
5,000-9,999	7,200	7,400	7,600	7,800
Group III				
10,000-19,999	7,800	8,000	8,200	8,400
Group IV				
20,000-29,999	8,100	8,400	8,700	9,000
Group V				
30,000-44,999	8,700	9,000	9,300	9,600
Group VI				
45,000-59,999	9,000	9,400	9,800	10,200
Group VII				
60,000-89,999	9,600	10,000	10,400	10,800
Group VIII				
90,000-499,999	9,900	10,400	10,900	11,400
Group IX				
500,000 and up	10,500	11,000	11,500	12,000

(4) Upon publication of the annual consumer price index by the United States Department of Commerce, the Department for Local Government shall fix the salary of the county judge/executive, county clerk, jailer who operates a full service jail, and sheriff at an annual rate of salary to which the county official is entitled pursuant to the increase in the Consumer Price Index and the salary schedule contained in this section. This salary determination shall be retroactive to the preceding January 1.

(5) Notwithstanding any provision contained in this section, no county official holding office on July 15, 1998, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on July 15, 1998.

(6) In addition to the step increases based on service in office, each officer shall be paid an annual incentive of one hundred dollars ($100) per calendar year for each forty (40) hour training unit successfully completed, based on continuing service in that office and, except as provided in this subsection, completion of at least forty (40) hours of approved training in each subsequent calendar year. If an officer fails, without good cause as determined by the commissioner of the Department for Local Government, to obtain the minimum amount of approved training in any year, the officer shall lose all training incentives previously accumulated. Each training unit shall be approved and certified by the Department for Local

Government. No officer shall receive more than one (1) training unit per calendar year nor more than four (4) incentive payments per calendar year. Each officer shall be allowed to carry forward up to forty (40) hours of training credit into the following calendar year for the purpose of satisfying the minimum amount of training for that year. Each annual incentive payment shall be adjusted by the Department for Local Government on an annual basis for any increase or decrease in the consumer price index in the same manner as salaries are adjusted as described in subsection (4) of this section. The Department for Local Government shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish guidelines for the approval and certification of training units.

(7) Except in counties that contain an urban-county form of government, justices of the peace who serve on fiscal courts and county commissioners shall also be eligible for the training incentive payments in accordance with subsection (6) of this section.

(8) The provisions of this section shall not apply to officers in a county which has established a consolidated local government pursuant to KRS Chapter 67C.

Section 22. KRS 65.003 is amended to read as follows:

(1) The governing body of each city***,***[~~ and~~] county, ***urban-county,***[~~including urban counties~~] ***consolidated local government,*** and charter ***county***[~~counties~~], shall adopt, by ordinance, a code of ethics which shall apply to all elected officials of the city***,***[~~ or~~] county, ***urban-county, consolidated local government, or charter county,*** and to appointed officials and employees of the city,[~~ or~~] county***, urban-county, consolidated local government, or charter county*** government as specified in the code of ethics. The elected officials of a city***,***[~~ or~~] county***, or consolidated local government*** to which a code of ethics shall apply include the mayor, county judge/executive, members of the governing body, county clerk, county attorney, sheriff, jailer, coroner, surveyor, and constable but do not include members of any school board. Candidates for the ***local government***[~~city and county~~] elective offices specified in this subsection shall comply with the annual financial disclosure statement filing requirements contained in the code of ethics.

(2) Any city***,***[~~ or~~] county***, or consolidated local government*** may enter into an agreement with one (1) or more other cities***,***[~~ or~~] counties, ***or consolidated local governments*** in accordance with the provisions of the Interlocal Cooperation Act, KRS 65.210 to 65.300, for joint adoption of a code of ethics which shall apply to all elected officials of the cities***,***[~~ or~~] counties, ***or consolidated local governments,*** and to appointed officials and employees as specified by each of the cities***,***[~~ or~~] counties***, or consolidated local governments*** which enters into the agreement. Candidates for the city***,***[~~ and~~] county***, or consolidated local government*** elective offices specified in this subsection shall comply with the annual financial disclosure statement filing requirements contained in the code of ethics.

(3) Each code of ethics adopted as provided by subsection (1) or (2) of this section, or amended as provided by subsection (4) of this section, shall include, but not be limited to, provisions which set forth:

(a) Standards of conduct for elected and appointed officials and employees;

(b) Requirements for creation of financial disclosure statements, which shall be filed annually by all candidates for the city***,***[~~ and~~] county***, or consolidated local government*** elective offices specified in subsection (1) of this section, elected officials of each city***,***[~~ and~~] county ***or consolidated local*** government, and other officials or employees of the city***,***[~~ or~~] county***, or consolidated local*** government, as specified in the code of ethics, and which shall be filed with the person or group responsible for enforcement of the code of ethics;

(c) A policy on the employment of members of the families of officials or employees of the city***,***[~~ or~~] county***, or consolidated local*** government, as specified in the code of ethics;

(d) The designation of a person or group who shall be responsible for enforcement of the code of ethics, including maintenance of financial disclosure statements, all of which shall be available for public inspection, receipt of complaints alleging possible violations of the code of ethics, issuance of opinions in response to inquiries relating to the code of ethics, investigation of possible violations of the code of ethics, and imposition of penalties provided in the code of ethics.

(4) The code of ethics ordinance adopted by a city***,***[~~ or~~] county***, or consolidated local government*** may be amended but shall not be repealed.

(5) (a) Within twenty-one (21) days of the adoption of the code of ethics required by this section, each city***,***[~~ and~~] county***, or consolidated local government*** shall deliver a copy of the ordinance by which the code was adopted and proof of publication in accordance with KRS Chapter 424 to the Department for Local Government. The department shall maintain the ordinances as public records and shall maintain a list of city***,***[~~ and~~] county***, or consolidated local*** governments which have adopted a code of ethics and a list of those which have not adopted a code of ethics.

(b) Within twenty-one (21) days of the amendment of a code of ethics required by this section, each city***,***[~~ or~~] county***, or consolidated local government*** shall deliver a copy of the ordinance by which the code was amended and proof of publication in accordance with KRS Chapter 424 to the Department for Local Government, which shall maintain the amendment with the ordinance by which the code was adopted.

(c) For ordinances adopting or amending a code of ethics under this section, cities of the first class ***and consolidated local governments*** shall comply with the publication requirements of KRS 83A.060(9), notwithstanding the exception contained in that statute.

(6) If a city***,***[~~ or~~] county***, or consolidated local*** government fails to comply with the requirements of this section, the Department for Local Government shall notify all state agencies, including area development districts, which deliver services or payments of money from the Commonwealth to the city***,***[~~ or~~] county***, or consolidated local*** government. Those agencies shall suspend delivery of all services or payments to the city***,***[~~ or~~] county***, or consolidated local*** government which fails to comply with the requirements of this section. The Department for Local Government shall immediately notify those same agencies when the city***,***[~~ or~~] county***, or consolidated local*** government is in compliance with the requirements of this section, and those agencies shall reinstate the delivery of services or payments to the city***,***[~~ or~~] county***, or consolidated local*** government.

Section 23. KRS 65.156 is amended to read as follows:

(1) The governing board of any local government retirement system created pursuant to KRS 67A.320, 67A.340, 67A.360 to 67A.690, 79.080, 90.400, 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884, or KRS Chapter 96 shall submit the retirement system to an actuarial evaluation at least once every three (3) years, if the system provides a defined benefit. The evaluation shall be prepared by an actuary who is a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the Employees' Retirement Income Security Act of 1975. The board shall send a copy of the most recent evaluation to the librarian of the Legislative Research Commission by September 1, 1982, and thereafter the board shall send a copy of each new evaluation within ten (10) days of receipt.

(2) Actuaries performing evaluations pursuant to this section shall use the entry age normal cost funding method. Their reports shall include a definition of each actuarial term and an explanation of each actuarial assumption used. Assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience.

(3) Any city or municipal agency with a retirement system created pursuant to KRS 79.080, 90.400, 90.410, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884, or KRS Chapter 96 which is closed to new members pursuant to KRS 78.530, 95.520, 95.621, or 95.852 shall, if its local pension system provides a defined benefit, contribute annually to the pension system, for the benefit of the retirees of the system and the active participants who choose to remain in the system, and in cities of the second class for the benefit of members who have completed at least twenty (20) years' service and withdrawn from service pursuant to KRS 95.857, an amount equal to that which would be required pursuant to the funding standards of KRS 95.868, plus so much of the principal amount of any unfunded prior service liability as the actuary states is necessary to maintain cash flow adequate to pay retiree and beneficiary payments until financial obligations to all retirees and beneficiaries are fully satisfied.

(4) All lawful expenses for general administration, performance bonds, medical, actuarial, accounting, auditing, legal, and investment services of a retirement system listed in subsection (1) of this section shall be paid from the pension fund. Actuaries performing evaluations pursuant to this section shall include estimates of the expenses in their recommendations for pension system funding, and local governments shall add payments for the expenses to their annual contributions to their respective retirement systems.

(5) A city or city agency***, consolidated local government,*** or urban-county government may, pursuant to KRS 67A.340, 79.080, 90.410, or KRS Chapter 96 as applicable, provide for the retirement security of its employees through the creation of a money purchase or defined contribution plan qualified under Section 401(a) of the Internal Revenue Code of 1954 as amended. City employee deferred compensation plans created pursuant to KRS 18A.270, or money purchase or defined contribution plans, qualified under Section 401(a) of the Internal Revenue Code of 1954 as amended, which by their nature cannot have an unfunded liability, shall not be subject to the actuarial evaluation requirements of this section, and shall not be subject to termination for purposes of employee entry into the County Employees Retirement System, as required by KRS 78.530, 79.080, 90.410, and 96.180.

(6) No city or county, except an urban-county, or special district, nor any agency or instrumentality of a city or county or special district shall create or maintain for its officers or employees a defined benefit retirement system, which by its nature can have an unfunded liability. The provisions of this subsection shall not preclude employer contributions for city managers or other appointed local government executives who participate, pursuant to KRS 78.540, in a retirement system which operates in more than one (1) state, nor the continuation of a local government defined benefit retirement system which has been closed to new members but which must fulfill its obligations to current active members, retirees, and beneficiaries. Notwithstanding any provision to the contrary, the provisions of this subsection shall not apply to length of service awards programs established for the benefit of volunteer firefighters and volunteer life squad and volunteer rescue personnel.

(7) Notwithstanding any provision to the contrary, any city or county may establish awards programs that recognize the length of service to the community by volunteer firefighters, volunteer life squads, and volunteer rescue personnel.

Section 24. KRS 65.158 is amended to read as follows:

Any city***, consolidated local government,*** or urban-county government which makes deductions from the pay of its employees for any cause other than taxes shall, upon the written request of at least thirty percent (30%) of all employees within a department or division, deduct the amount from the pay of an employee as he may note on a signed payroll notification card or voucher for the purposes of employee benefits, insurance, community projects, or union dues. No deduction shall be made pursuant to this section from the pay of any employee who does not sign a payroll notification card or voucher. Upon these deductions, the city***,***

consolidated local government, or urban-county government shall, within thirty (30) days, pay to the elected representative or designated recipient for the employees of the department or division the total amount of the deductions minus the actual cost to the city***, consolidated local government,*** or urban-county government of processing the deductions.

Section 25. KRS 65.170 is amended to read as follows:

(1) A district may be dissolved by a referendum as provided in this section.

(2) Persons seeking dissolution of a district shall submit a petition to the county clerk signed by at least fifty percent (50%) of that class of citizens who may by law petition for the creation of the district.

(3) The petition shall be in substantially the following form: "The undersigned (registered voters, qualified voters, freeholders or landowners as determined by subsection (2) of this section) living within (name of the district and containing a metes and bounds description of the district) hereby request that the question of the dissolution of the district be put to a referendum." The petition shall conspicuously state in layman's terms that any legal obligations of the district must be satisfied before the district can be dissolved and that the citizens of the district shall be responsible for the satisfaction of any such obligations. Signatures on the petition shall be dated, the last no later than ninety (90) days after the first.

(4) If the county clerk determines that the petition is in proper order, he shall certify the petition to the fiscal court ***or consolidated local government***. The fiscal court ***or consolidated local government*** shall direct that the question be placed before the voters at the next regular election if the petition is certified not later than the second Tuesday in August preceding the day of the regular election. The fiscal court ***or consolidated local government*** shall bear the costs of advertising and placing the question before the voters.

(5) The county clerk shall advertise the question as provided in KRS Chapter 424 and shall prepare the following admonition to the voter: "The (name of district) may have existing legal obligations that must be satisfied before the district can be dissolved. The citizens of the district shall be responsible for the satisfaction of any such obligations." The question of the dissolution of the district shall be placed before the voters in substantially the following form: "The (name of the district and containing a metes and bounds description of the district) should be dissolved." The voter shall vote "yes" or "no."

(6) Registered voters eligible to sign a petition for dissolution as provided by subsection (2) of this section shall be eligible to vote on the question of dissolution.

(7) In referendums under this section, provision shall be made for those opposing the dissolution of the district to have equal representation with the proponents of the measure in the determination of eligibility of voters, and in the observance of canvassing and certifying of the returns.

Section 26. KRS 65.192 is amended to read as follows:

In counties containing a ***consolidated local government or*** city of the first class, the following method of creating a taxing district shall be an alternative to KRS 65.182 to 65.190:

(1) Persons desiring to form a taxing district shall present a petition to the fiscal court clerk ***or clerk of the legislative council of a consolidated local government*** and to each member of the fiscal court ***or consolidated local government council***, requesting that the question of establishing the special district be placed upon the ballot for the next general election. The petition shall be signed by at least one hundred (100) registered voters from each senatorial district, contained wholly or partially within the proposed taxing district. If one hundred (100) registered voters do not reside within a senatorial district and within the boundaries of the proposed taxing district, then the petition shall be signed by twenty-five percent (25%) of the registered voters within said senatorial district. At the time of its submission to fiscal court ***the*** fiscal court ***or consolidated local government council*** each petition shall be accompanied by a plan of service, showing such of the following as may be germane to the purposes for which the taxing district is being formed:

   (a) The statutory authority under which the district is created and under which the taxing district will operate;

   (b) The method of creating and appointing the governing body of such district if it is to be different from the general statutory authority under which it will operate;

   (c) Demographic characteristics of the area including but not limited to population, density, projected growth, and assessed valuation;

   (d) A description of the service area including, but not limited to, the population to be served, a metes and bounds description of the area of the proposed taxing district, the anticipated date of beginning service, the nature and extent of the proposed service, the projected effect of providing service on the social and economic growth of the area, and projected growth in service demand or need;

   (e) A three (3) year projection of cost versus revenue and the method chosen for raising such revenues as authorized in this section;

   (f) Justification for formation of the taxing district including but not limited to the location of nearby governmental and nongovernmental providers of like services; and

   (g) Any additional information such as land use plans, existing land uses, drainage patterns, health problems, and other similar analyses which bear on the necessity and means of providing the proposed service.

(2) The fiscal court clerk ***or the clerk of the legislative council of a consolidated local government*** shall notify all planning commissions, cities, and area development districts within whose jurisdiction the proposed service area is located and any

state agencies required by law to be notified of the proposal for the creation of the taxing district.

(3) The fiscal court clerk ***or the clerk of the legislative council of a consolidated local government*** shall review the petition, and if the fiscal court ***or consolidated local government council*** determines that the signatures are valid, the fiscal court ***or consolidated local government council*** shall schedule a hearing on the proposal for no earlier than thirty (30) nor later than sixty (60) days following receipt of the petition, charter, and plan of service, and shall, in accordance with the provisions of KRS Chapter 424, publish notice which includes the time and place of the public hearing, alerts the public that the issue discussed at the hearing will be placed upon the ballot and includes an accurate map of the area or a description in layman's terms reasonably identifying the area.

(4) At the public hearing, the fiscal court ***or the legislative council of a consolidated local government*** shall take testimony of interested parties and solicit the recommendations of any planning commission, city, area development district, or state agency meeting the criteria of subsection (2) of this section.

(5) Following the public hearing, the fiscal court ***or the legislative council of a consolidated local government*** shall adopt a resolution submitting to the qualified voters of the county ***or the consolidated local government*** the question as to whether a taxing district should be established for the area and a special ad valorem tax or an occupational license fee imposed for the maintenance and operation of the district. A certified copy of the order of the fiscal court ***or the legislative council of a consolidated local government*** shall be filed with the county clerk not later than the second Tuesday in August prior to the next regular election and thereupon the clerk shall cause the question to be placed upon the ballot.

(6) The question shall be stated so that the service to be provided by the district, the type of governing body***,*** and the method of financing as allowed by this section are clearly outlined.

(7) If a majority of those voting on the question favor the establishment of a special district with authorization to impose an ad valorem tax then it shall be so established and shall constitute and be a taxing district within the meaning of Section 157 of the Constitution of Kentucky. If a majority of those voting on the question favor the establishment of a special district with an increase in the occupational license fee as authorized by this section, it shall be so established and shall operate as set forth in the question on the ballot.

(8) If an ad valorem tax is approved, the county clerk shall add the levy to the tax bills of the county ***or the consolidated local government***. For taxing purposes the effective date of the tax levy shall be January 1 of the year following the election. If an occupational license fee increase is approved, the appropriate legislative bodies shall add the levy to the occupational license fee as of January 1 of the year following the election. The tax or fee shall be collected in the same manner as are other county ***or consolidated local government*** ad valorem taxes or occupational license fees and shall be turned over to the governing body of the district. The special ad valorem tax or fee shall be in addition to all other ad valorem taxes or occupational license fees.

(9) Nothing in this section shall be construed to enlarge upon or to restrict the powers granted a taxing district under the taxing district's specific authorizing statutes.

(10) A special district created pursuant to this section may be financed either by a special ad valorem tax imposed by the governing body of the district, as authorized by the voters in an election on the question, of an amount not to exceed ten cents ($0.10) per one hundred dollars ($100) of assessed value of the property subject to local taxation of the district; or by a levy of occupational license fees by the public body or bodies with jurisdiction over the area served by the special district, if the levy has been approved by the voters in an election on the question. The special district shall not levy both an ad valorem tax and an occupational license fee. The occupational license fee shall not exceed one percent (1%) of:

(a) Salaries, wages, commissions, and other compensation earned by persons for work done and services performed or rendered; and

(b) The net profits of businesses, trades, professions, or occupations from activities conducted in the district, except public service companies, banks, trust companies, combined banks and trust companies, combined trust, banking and title companies, any savings and loan association whether state or federally chartered, and in all other cases where a public body is prohibited by law from imposing a license fee.

(11) The budget of any taxing district created pursuant to this section shall be approved by the fiscal court ***or legislative council of a consolidated local government*** if financed by an ad valorem tax, or by the fiscal court ***or the legislative council of a consolidated local government*** and the legislative body levying the fee, if funded by an occupational license fee increase. The board of the district shall submit its estimate of revenue and proposed budget to the appropriate approving body or bodies by May 1 of each year, and such body or bodies shall approve or amend the budget by June 1.

Section 27. KRS 65.245 is amended to read as follows:

(1) It is the purpose of this section to clarify the ability of cities, counties, urban-counties, charter counties, ***consolidated local governments,*** and sheriffs upon approval of the fiscal court ***or consolidated local government*** to share their revenues by entering into interlocal agreements.

(2) Any city, county, urban-county, ***consolidated local government*** or charter county may by ordinance enter into cooperative interlocal agreements for the sharing of revenues. A sheriff, upon approval of the fiscal court ***or the consolidated local government***, may enter into a memorandum of agreement with local governments for the purposes of sharing of revenues. The distribution of the revenues shall be as agreed upon by the local governments or the sheriff and contained in the

interlocal agreement.

Section 28. KRS 65.410 is amended to read as follows:

(1) "Local legislative body" means the chief governing body of a city, county***, consolidated local government,*** or urban-county which has legislative powers whether it is the board of aldermen, the general council, the common council, ***the legislative council,*** the city council, the board of commissioners, the fiscal court, or otherwise.

(2) "Open space land" means any land in an area which is provided or preserved for park or recreational purposes; conservation of land or other natural resources; historic or scenic purposes; or community development purposes.

(3) "Public body" means any state agency or local legislative body.

(4) A "scenic easement" is an interest in land transferred by the owner thereof to the public, either in perpetuity or for a term of years. A scenic easement may be created by sale, gift, lease, bequest, or otherwise. An instrument which creates a scenic easement shall contain a covenant whereby the owner of the land promises neither to undertake nor to permit the construction of any improvements upon the land, except as the instrument provides and except for public service facilities installed for the benefit of the land subject to such covenant or public service facilities installed pursuant to an authorization by the governing body of the city, county, urban-county, or the Public Service Commission. Any such reservation shall be consistent with the purposes of this chapter or with the findings of the county, city, or urban-county pursuant to KRS 65.466 and shall not permit any action which will materially impair the open-space character of the land.

Section 29. KRS 65.466 is amended to read as follows:

A scenic easement shall not be accepted by a city, county, or urban-county, ***consolidated local government,*** unless the governing body, by resolution finds:

(1) That the preservation of the character of the land is consistent with the plan of the city, county, ***consolidated local government,*** or urban-county, where such plan exists; and

(2) That the preservation of the character of the land is in the best interest of the state, county, city, ***consolidated local government,*** or urban-county, is important to the public for the enjoyment of scenic beauty, and will serve the public interest in a manner recited in the resolution and consistent with the purposes of KRS 65.462 to 65.480.

(3) The local legislative body may consider these factors:

(a) It is likely that at some time the public may acquire the land for a park or other public use;

(b) The land is unimproved and has scenic value to the public as viewed from a public highway or from public or private buildings;

(c) The retention of the land as open space will add to the amenities of living in adjoining or neighboring urbanized areas;

(d) The land lies in an area which in the public interest should remain rural in character and the retention of the land as open space will help preserve the rural character of the area;

(e) It is in the public interest that the land remain in its natural state, including the trees and other natural growth, as a means of preventing floods or soil erosion or because of its value as watershed;

(f) The land lies within an established scenic highway corridor;

(g) The land is valuable to the public as a wildlife preserve or sanctuary and the instrument contains appropriate covenants to that end; or

(h) The land has historic significance or contains a building of either historic or architectural importance.

Section 30. KRS 65.490 is amended to read as follows:

As used in KRS 65.490 to 65.499, unless the context otherwise requires:

(1) "Agency" means an urban renewal and community development agency of a taxing district located within a county containing ***a consolidated local government or*** a city of the first class, established under KRS Chapter 99; a development authority located within a county, containing ***a consolidated local government or*** a city of the first class established under KRS Chapter 99; a nonprofit corporation located within a county containing ***a consolidated local government or*** a city of the first class established under KRS Chapter 58; or a designated department, division, or office ***of a county containing a consolidated local government or*** of a city of the first class~~[or a county containing a city of the first class]~~;

(2) "Development area" means an area no less than one (1) square mile, nor more than six (6) square miles, designated in need of public improvements by a local or state government in a county containing ***a consolidated local government or*** a city of the first class, a project area as defined in KRS 99.615, or a public project as defined in KRS 58.010 in a county containing ***a consolidated local government or*** a city of the first class. "Development area" includes an existing economic development asset;

(3) "Increment" means that amount of money received by any taxing district or the state that is determined by subtracting the amount of old revenues from the amount of new revenues in any year for which a taxing district or the state and an agency have agreed upon under the terms of a contract of release or a grant contract;

(4) "Local government" means a county containing ***a consolidated local government or*** a city of the first class;

(5) "New revenues" means the revenues received by any taxing district or the state from a development area in any year after the establishment of the development area;

(6) "Old revenues" means the amount of revenues received by any taxing district or the state from a development area in the last year prior to the establishment of the development area;

(7) "Project" means any urban renewal, redevelopment, or public project undertaken in accordance with the provisions of KRS 65.490 to 65.497, any project undertaken in accordance with KRS 99.610 to 99.680, or any project undertaken in accordance with the provisions of KRS Chapter 58;

(8) "Release" or "contract of release" or "grant contract" means that agreement by which a taxing district or the state permits the payment to an agency of a portion of increments or an amount equal to a portion of increments received by it in return for the benefits accrued to the taxing district or the state by reason of a project undertaken by an agency in a development area; and

(9) "Taxing district" means ***a consolidated local government,*** a county containing a city of the first class***,***[~~ or~~] a city of the first class that encompasses all or part of a development area, or the state***,*** but does not mean a school district.

(10) "Pilot program" means a tax increment financing program or a grant program created by an agency within ***a consolidated local government or*** a county containing a city of the first class which shall exist for a period of twenty (20) years after which time it shall continue only after reauthorization by the General Assembly.

Section 31. KRS 65.499 is amended to read as follows:

Any agency, other than a county, ***consolidated local government,*** city, urban-county, or charter county government, that enters into a contract with any taxing district for the release of any increments that may arise during the period of a contract of release shall forthwith notify the official charged with the collecting of taxes for the property in the development area of the execution of a contract of release, and the official charged with the collection of taxes shall in each year a contract of release is in effect determine the amount of the increment that is the subject of the contract of release for division between the taxing district and the agency; and, upon the basis of the agreement made between the taxing district and the agency, the official shall divide and distribute the funds derived from the area between the taxing district and the agency. Any local government that has designated an agency as having oversight of a designated development area shall annually issue a release to the agency of those increments created from the taxes collected on properties within the development area. All increments released to an agency of a local government shall be used solely for the purposes of projects in the development area.

Section 32. KRS 65.540 is amended to read as follows:

(1) The members of the authority shall be appointed as follows:

  (a) If the authority is established by a city, such members shall be appointed by the mayor of the city;

  (b) If the authority is established by a county, such members shall be appointed by the county judge/executive with the approval of the fiscal court;

  (c) If the authority is established as a joint city-county riverport authority, three (3) members shall be appointed by the mayor and three (3) members by the county judge/executive to the terms as provided in subsection (2) of this section, and in addition, the mayor may appoint himself or a member of the city legislative body as one (1) additional member of the authority and the county judge/executive may appoint himself or a member of the fiscal court as one (1) additional member of the authority for a term of two (2) years, provided that such persons may not serve on the authority after the expiration of their terms as an elected official;

  (d) If a combination of cities and/or counties establishes a joint riverport authority, the mayors and/or county judges/executive involved shall jointly choose six (6) members to the terms as provided in subsection (2) of this section, and shall jointly choose successors and may upon agreement appoint a mayor or a member of a city legislative body and a county judge/executive or a member of a fiscal court as two (2) additional members of the authority for terms of two (2) years, provided that such persons may not serve on the authority after the expiration of their terms as an elected official.

(2) Except as provided in subsection (1)(c) and (d) of this section, members of the authority shall serve for a term of four (4) years each, and until their successors are appointed and qualified, provided, however, that initial appointments shall be made so that two (2) members are appointed for two (2) years, two (2) members for three (3) years and two (2) members for four (4) years. Upon expiration of these staggered terms, successors shall be appointed for a term of four (4) years.

(3) A riverport authority member may be replaced by the appointing authority for inefficiency, neglect of duty, malfeasance, or conflict of interest. The appointing authority shall submit a written statement to the riverport authority setting forth the reasons for removal, and the statement shall be read at the next authority meeting, which shall be open to the general public. The member so removed shall have the right of appeal in the Circuit Court. Except as provided in subsection (1)(c) and (d) of this section no riverport authority member shall hold any official office with the appointing authority.

(4) Notwithstanding subsection (2) of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the terms of the members of the authority shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, the county judge/executive with the approval of the fiscal court shall adjust the terms of the sitting members so that one-third (1/3) of the terms expire in one (1) year, one-third (1/3) expire in two (2) years, and one-third (1/3) expire in three (3) years. Upon expiration of these

staggered terms, successors shall be appointed for a term of three (3) years. ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing that city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, all members of the authority shall be appointed by the mayor of the consolidated local government for a term of three (3) years. Incumbent members upon the establishment of the consolidated local government shall continue to serve as members of the authority for the time remaining on their current terms of appointment.***

Section 33. KRS 65.570 is amended to read as follows:

(1) Members of the authority shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred by them in the conduct of the affairs of the authority. The authority shall, upon the appointment of its members, organize and elect officers. The authority shall choose a chairman and vice chairman who shall serve for terms of one (1) year. The authority may fix a salary for the secretary-treasurer, and the secretary-treasurer shall execute an official bond to be set and approved by the authority, and the cost thereof shall be paid by the authority.

(2) The authority may employ or retain necessary counsel, agents, employees or other persons to carry out its purposes, work and functions and may prescribe such rules and regulations as it deems necessary.

(3) The secretary-treasurer shall keep the minutes of all meetings of the authority and shall also keep a set of books showing the receipts and expenditures of the authority. He shall preserve on file duplicate vouchers for all expenditures and shall present to the authority, upon request, complete reports of all financial transactions and the financial condition of the authority. Such books and vouchers shall at all times be subject to examination by the legislative body or bodies by whom the authority was created. He shall transmit at least once annually a detailed report of all acts and doings of the authority to the legislative body or bodies by whom the authority was created.

(4) Notwithstanding subsection (1) of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the secretary-treasurer or executive director, as the case may be, shall be appointed by and serve at the pleasure of the county judge/executive with the approval of the fiscal court as provided in KRS 67.040; fiscal court shall fix the salary. ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing that city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the secretary-treasurer or executive director, as the case may be, shall be appointed by and shall serve at the pleasure of the mayor.***

Section 34. KRS 65.680 is amended to read as follows:

As used in KRS 65.680 to 65.699:

(1) "Assessment" means the job development assessment fee authorized by KRS 65.6851, which the governing body may elect to impose throughout the development area;

(2) "City" means any city***, consolidated local government,*** or urban-county;

(3) "Commencement date" means the date a development area is established, as provided in the ordinance creating the development area;

(4) "County" means any county***, consolidated local government,*** or charter county;

(5) "Debt charges" means the principal, including any mandatory sinking fund deposits, interest, and any redemption premium, payable on increment bonds as the payments come due and are payable and any charges related to the payment of the foregoing;

(6) "Development area" means a contiguous geographic area, which may be within one (1) or more cities or counties, defined and created for economic development purposes by an ordinance of a city or county in which one (1) or more economic development projects are proposed to be located;

(7) "Economic development project" means any property, asset, or improvement certified by the governing body, which certification is conclusive as:

(a) Being for a public purpose;

(b) Being for economic development purposes;

(c) Being in or related to a development area; and

(d) Having an estimated life or period of usefulness of one (1) year or more, including, but not limited to, real estate, buildings, personal property, equipment, furnishings, and site improvements and reconstruction, rehabilitation, renovation, installation, improvement, enlargement, and extension of property, assets, or improvements so certified as having an estimated life or period of usefulness of one (1) year or more;

(8) "Economic development purposes" means the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, or any combination thereof, which is determined by the governing body establishing the development area as contributing to economic development;

(9) "Financing agreement" means an agreement made between cities, counties, or a combination thereof providing for the release of increments under the authority of KRS 65.680 to 65.699;

(10) "Governing body" means the body possessing legislative authority in a city or county;

(11) "Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more economic development projects in a development area, the payment of which is secured solely by a pledge of increments or by a pledge of increments and other sources of payment that are otherwise permitted by law to be pledged or used as a source of payment of the bonds or notes;

(12) "Increments" means that amount of revenue due to be received by a city or county, determined by subtracting the amount of old revenues from the amount of new revenues, including assessments, if any, with respect to a development area;

(13) "Issuer" means a city or county issuing increment bonds;

(14) "New revenues" means the revenues received with respect to a development area in any year after the commencement date for the development area and may include all or a portion of the assessments as determined by the governing body;

(15) "Old revenues" means the amount of revenues received with respect to a development area in the last year prior to the commencement date for the development area;

(16) "Outstanding" means increment bonds that have been issued, delivered, and paid for, except any of the following:

(a) Increment bonds canceled upon surrender, exchange, or transfer, or upon payment or redemption;

(b) Increment bonds in replacement of which or in exchange for which other bonds have been issued; or

(c) Increment bonds for the payment, or redemption or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the ordinance or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, or otherwise, have been deposited, and credited in a sinking fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of increment bonds to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected bond holders has been filed with the issuer or its agent;

(17) "Revenue collector" means any official charged with collecting revenues in a development area;

(18) "Revenues" means ad valorem revenues, occupational license fees, and assessments received by the city or county creating a development area and by each city and county that is a party to a financing agreement related to that development area;

(19) "Special fund" means a special fund created in accordance with KRS 65.688 into which increments are to be deposited;

(20) "Termination date" means the date on which the development area shall cease to exist, which date shall be no earlier than the date any increment bonds secured by increments from a development area are no longer outstanding; and

(21) "Year" means January 1 to December 31 of the same calendar year.

Section 35. KRS 65.7701 is amended to read as follows:

As used in KRS 65.7703 to 65.7721, unless the context otherwise requires:

(1) "Governmental agency" means any county, urban-county government, ***consolidated local government,*** city, taxing district, special district, school district, or other political subdivision of the Commonwealth or body corporate or politic or any instrumentality of the foregoing.

(2) "Governing body" means the board, council, commission, fiscal court, or other body or group that is authorized by law to act on behalf of a governmental agency.

(3) "Legislation" means an order, resolution, or ordinance of the governing body.

(4) "Notes" means notes authorized by KRS 65.7703 to 65.7721 which may be secured by taxes or revenue or taxes and revenue.

(5) "Revenue" means all funds received by a governmental agency which are not taxes, including, but not limited to, excises, transfers, service fees, assessments, and occupational license fees.

(6) "State local debt officer" means the officer so designated in KRS 66.045.

(7) "Taxes" means taxes properly levied upon real or personal property.

Section 36. KRS 65.940 is amended to read as follows:

As used in KRS 65.942 to 65.956, unless the context otherwise requires:

(1) "Acquire" means to purchase, install, equip, or improve personal property or real property pursuant to KRS 65.942 to 65.956.

(2) "City" means any municipal corporation of any class incorporated in the Commonwealth.

(3) "Construct" means building reconstruction, replacement, extension, repairing, betterment, development, equipment, embellishment, or improvement.

(4) "County" means a political subdivision of the Commonwealth created and established by the laws of the Commonwealth.

(5) "Governmental agency" means any county, urban-county government, ***consolidated local government,*** city, taxing district, special district, school district, or other political subdivision of the Commonwealth or body corporate or politic or any instrumentality of the foregoing.

(6) "Governing body" means the board, council, commission, fiscal court, or other body or group that is authorized by law to

acquire property for each respective governmental agency.

(7) "Lease" means a lease, lease purchase, lease with option to purchase, installment sale agreement, or other similar agreement entered into pursuant to KRS 65.942 to 65.956.

(8) "Lease price" means the total of amounts designated as payments of principal under a lease.

(9) "Net interest cost" means the total of all interest to accrue and fall due through the last payment due date on a lease, plus any discount or minus any premium included in the lease price.

(10) "Person" means any individual, corporation, organization, government or governmental subdivision, or agency, business trust, estate, trust, partnership, association, and any other legal entity.

(11) "Personal property" means personal property, appliances, equipment or furnishings, or an interest therein, whether movable or fixed, deemed by the governing body of a governmental agency to be necessary, useful, or appropriate to one (1) or more purposes of the governmental agency, but shall not include real property.

(12) "Real property" means land, buildings, fixtures, and interests in real property, deemed by the governing body of the governmental agency to be necessary, useful, or appropriate to one (1) or more purposes of the governmental agency.

(13) "Revenue" means all funds received by a governmental agency which are not taxes, including but not limited to excises, transfers, service fees, assessments, and occupational license fees.

(14) "School district" means any county school district or independent school district organized and existing pursuant to the laws of the Commonwealth.

(15) "Special district" means any agency, authority, or political subdivision of the Commonwealth which exercises less than statewide jurisdiction and which is organized for the purpose of performing governmental or other prescribed functions within limited boundaries. It includes all political subdivisions of the Commonwealth except a city, county, or school district.

(16) "State local debt officer" means the officer so designated in KRS 66.045.

(17) "Taxes" means taxes properly levied upon real or personal property.

(18) "Taxing district" means any taxing district created under KRS 65.180 to 65.190.

Section 37. KRS 66.041 is amended to read as follows:

(1) A city, urban-county, ***consolidated local government,*** or charter county shall not incur net indebtedness to an amount exceeding the following maximum percentages on the value of taxable property within the city, urban-county, ***consolidated local government,*** or charter county, as estimated by the last certified assessment previous to the incurring of the indebtedness:

  (a) Cities, urban-counties, ***consolidated local governments,*** and charter counties having a population of fifteen thousand (15,000) or more, ten percent (10%);

  (b) Cities, urban-counties, and charter counties having a population of less than fifteen thousand (15,000) but not less than three thousand, five percent (5%); and

  (c) Cities, urban-counties, and charter counties having a population of less than three thousand (3,000), three percent (3%).

(2) A county, which is not an urban-county***, consolidated local government,*** or charter county, or a taxing district shall not incur net indebtedness for all purposes that exceeds an amount equal to two percent (2%) of the value of the taxable property within the county or district, as estimated by the last certified assessment previous to the incurring of the indebtedness.

Section 38. KRS 66.131 is amended to read as follows:

(1) Bonds shall be signed on behalf of the issuer as follows:

  (a) In the case of a city, urban-county, ***consolidated local government,*** or charter county, by the chief executive officer and attested by the clerk of the governmental body, or by the other officers as are designated to sign by the legislation authorizing the bonds;

  (b) In the case of a county, by the judge/executive or other chief executive officer and attested by the fiscal court clerk, or by the officers of the county as are designated to sign by the legislation authorizing the bonds; or

  (c) In the case of a taxing district, by the officer of the issuer designated by the legislation authorizing the bonds.

(2) If an officer designated to sign bonds or interest coupons pursuant to subsection (1) of this section is for any reason unable or unavailable to sign, another officer of the issuer, designated by legislation passed by the issuer, may sign instead of that officer.

(3) All signatures required by this section may be facsimile signatures.

(4) If an officer who has signed, manually or by facsimile signature, any bonds of an issuer ceases to be the officer before the bonds so have been actually delivered, the bonds may nevertheless be issued and delivered as though the person who has signed the bonds had not ceased to be the officer. Any bonds may be signed as provided in this section, on behalf of the issuer, by an officer who is the proper officer of the issuer on the actual date of signing of the bonds, notwithstanding the

fact that at the date of the bonds or on the date of delivery of the bonds that person was or is not the officer of the issuer.

(5) Bonds, other than fully-registered bonds, may, in the discretion of the issuer, have interest coupons attached or otherwise appertaining. The interest coupons shall be signed on behalf of the issuer by the manual or facsimile signature of at least one (1) of the officers described in subsection (1) of this section.

Section 39. KRS 67.077 is amended to read as follows:

(1) No county ordinance shall be passed until it has been read on two (2) separate days, but ordinances may be read by title and a summary only. A proposed ordinance may be amended by the fiscal court after its first reading and prior to its adoption. All amendments shall be proposed in writing, and only by setting out in full each amended section.

(2) No county ordinance shall be passed until it has been published pursuant to KRS Chapter 424. Prior to passage, ordinances may be published by summary. Publication shall include the time, date, and place at which the county ordinance will be considered, and a place within the county where a copy of the full text of the proposed ordinance is available for public inspection. Publication of amendments to a proposed ordinance shall be required, pursuant to KRS Chapter 424, prior to its adoption, and amendments shall be filed with the full text of the proposed ordinance that is available for public inspection. If consideration for passage is continued from the initial meeting to a subsequent date, no further publication shall be necessary if at each meeting the time, date and place of the next meeting are announced.

(3) All county ordinances and amendments shall be published after passage and may be published in full or in summary form at the discretion of the fiscal court. If applicable, a sketch, drawing, or map, together with a narrative description written in layman's terms, may be used in lieu of metes and bounds descriptions. If published in summary form, publication shall contain notice of a place in the county where the full text of the ordinance or amendment is available for public inspection.

(4) Traffic, building, housing, plumbing, electrical, safety, and other self-contained codes may be adopted by reference if a copy of the code is kept with the adopting ordinance and is made a part of the permanent records of the county.

(5) The provisions of this section shall not be applicable in counties that have pursuant to KRS 67.830 adopted a charter county form of government or pursuant to KRS Chapter 67A adopted an urban-county form of government ***or pursuant to KRS Chapter 67C adopted a consolidated local government***.

Section 40. KRS 67.120 is amended to read as follows:

(1) Except in counties containing a city of the first class ***or a consolidated local government***, the county clerk, at his option, shall be clerk of the fiscal court. He shall attend its sessions and keep a full and complete record of all its proceedings, with a proper index. For his services as clerk of the fiscal court he shall receive an annual salary fixed at a reasonable amount by the fiscal court and paid in monthly installments out of the county treasury. The salary must be fixed not later than the first Monday in May in the year in which county clerks are elected. If the county clerk chooses not to be the clerk of the fiscal court, the fiscal court may select a clerk according to the provisions of subsection (2) of this section.

(2) ***Except in a consolidated local government,*** the fiscal court of each county in this Commonwealth in which there is located a city of the first class shall have a clerk, and may have a deputy clerk and may employ a stenographer, all of whom shall attend its sessions and keep a full and correct record of all the proceedings of the court, together with a complete index, and who in addition shall perform such duties as may be required of them by the court. The fiscal court shall appoint a clerk who shall serve at the pleasure of the fiscal court. The clerk shall execute bond to be approved by the fiscal court. He shall receive an annual salary which shall be fixed by the court and paid in monthly installments out of the county levy. The court may appoint a deputy and a stenographer who shall qualify by taking the constitutional oath and who shall serve at the will of the court. The salary of the deputy clerk and the stenographer shall be fixed by the court and paid in monthly installments out of the county levy.

(3) The legislative council of a consolidated local government shall have a clerk, and may have a deputy clerk and may employ a stenographer, all of whom shall attend its sessions and keep a full and correct record of all the proceedings of the council, together with a complete index, and who in addition shall perform such duties as may be required of them by the council. The legislative council shall appoint a clerk who shall serve at the pleasure of the council. The clerk shall execute bond to be approved by the council. He or she shall receive an annual salary which shall be fixed by the council. The council may appoint a deputy clerk and a stenographer, to assist in the official duties of the clerk, who shall qualify by taking the constitutional oath and who shall serve at the will of the council. The salaries of the deputy clerks and the stenographer shall be fixed by the council.

Section 41. KRS 67.705 is amended to read as follows:

(1) Each county shall have a chief executive officer known as the county judge/executive. Only a resident of the county shall be eligible for election as county judge/executive. He shall be nominated and elected by the qualified voters of the county in the manner provided by law for the election of county officers. In case the office of county judge/executive becomes vacant by reason of death, resignation, or removal, it shall be filled with a person appointed by the Governor, in accordance with Section 152 of the Constitution, for the unexpired term. The Governor shall appoint a person to fill a vacancy in the office of county judge/executive not later than thirty (30) days after the date on which the vacancy occurs. If a vacancy occurs in the office of county judge/executive, the remaining members of fiscal court shall elect one (1) of their members to serve as temporary county judge/executive until the Governor fills the vacancy in the office, notwithstanding the provisions of KRS 61.080(2) to the contrary.

(2) The county judge/executive shall receive an annual salary pursuant to the salary schedule in KRS 64.5275, except in counties that contain an urban-county form of government ***or a consolidated local government***, where the county judge/executive shall receive the salary set by the legislative body.

(3) ***Except in counties containing a consolidated local government,*** in no event shall the county judge/executive, justice of the peace, magistrate, or commissioners who serve on the fiscal court holding office on January 2, 1978, receive less than the total annual compensation received by that official during calendar year 1976.

(4) In a county containing a consolidated local government, the county judge/executive, and magistrates or commissioners may have those duties as determined by ordinance of the consolidated local government and shall receive a salary as set by the legislative council of the consolidated local government for those duties.

Section 42. KRS 67.712 is amended to read as follows:

(1) Whenever rights, powers, privileges, immunities and responsibilities are granted to the county judge/executive in general statutes, the same ***shall be considered a grant in those counties in which a consolidated local government has been adopted pursuant to KRS Chapter 67C to the mayor of the consolidated local government, and*** shall be considered a grant in those counties in which an urban-county government has been adopted pursuant to KRS Chapter 67A to the officer in whom such functions are vested under the applicable provision of the comprehensive plan of an urban-county government, if any, and otherwise to the chief executive officer of an urban-county government.

(2) Whenever rights, powers, privileges, immunities and responsibilities are granted to the fiscal court in general statutes, the same shall ***be considered a grant in those counties in which a consolidated local government has been adopted pursuant to KRS Chapter 67C to the officer or officers in whom such functions are vested pursuant to KRS 67C.103(1) and KRS 67C.105(1), respectively, of the consolidated local government, and shall*** be considered a grant in those counties in which an urban-county government has been adopted pursuant to KRS Chapter 67A to the legislative body of the urban government.

Section 43. KRS 67.722 is amended to read as follows:

Except in a consolidated local government, the county judge/executive shall receive an annual expense allowance of three thousand six hundred dollars ($3,600) for performing his duties and fulfilling his responsibilities in the administration of the local county road program. Payment shall be made quarterly in the amount of nine hundred dollars ($900) per quarter, the first such payment to be made for the quarter ending March 31, 1978.

Section 44. KRS 67.825 is amended to read as follows:

In order to facilitate the operation of local government, to prevent duplication of services, and to promote efficient and economical management of the affairs of local government, the citizens of any county, except in a county containing ***a consolidated local government,*** a city of the first class, or an urban-county government, may vote to merge all units of city and county government into a charter county form of government or to consolidate any agency, subdivision, department, or subdistrict providing any services or performing any functions for a city or county. The merger or consolidation shall take place only after compliance with the procedures set forth in KRS 67.830.

Section 45. KRS 67.830 is amended to read as follows:

(1) The fiscal court in any county, except in a county containing a ***consolidated local government, a*** city of the first class, or an urban-county government, and a majority of all cities within the county may adopt an ordinance to study the question of merging the county government with all other units of local government within the county to form a charter county form of government, or consolidating any agency, subdivision, department, or subdistrict providing any services or performing any functions for a city or county.

(2) In lieu of the adoption of an ordinance pursuant to subsection (1) of this section, a petition may be filed with the county clerk requesting a referendum be held on the question of the adoption of a charter county form of government or the consolidation of any agency, subdivision, department, or subdistrict providing any services or performing any functions for a city or county. The petition shall be signed by a number of registered voters equal to at least twenty percent (20%) of the number of county residents voting in the preceding regular election.

(3) Within sixty (60) days of the adoption of an ordinance pursuant to subsection (1) of this section, or within sixty (60) days of a petition being filed with the county clerk pursuant to subsection (2) of this section, the fiscal court and the city legislative body of each city within the county shall jointly appoint a commission to study the question of the adoption of a charter county form of government or the consolidation of any agency, subdivision, department, or subdistrict providing any services or performing any functions for a city or county. The fiscal court shall determine the size of the membership of the commission which shall be composed of not less than twenty (20) or more than forty (40) citizens. The actual appointment of individual members to the commission shall be governed by the following provisions:

 (a) The county shall make a number of appointments equal to fifty-five percent (55%) of the membership of the commission.

 (b) Each city located within the county shall join together with other cities of the same classification located within the county for the purpose of making appointments to the commission. Jointly the cities shall make a number of appointments equal to forty-five percent (45%) of the membership of the commission. Each class of city within the county shall have a minimum of one (1) representative on the commission.

(c) If there is only one (1) city of a particular classification within a county, the city shall make a number of appointments based upon the ratio of the percentage of the population residing within that city to the countywide population.

(d) The county judge/executive shall serve as a voting member of the commission and preside as its chairman.

(4) The commission shall be funded by the fiscal court and each city within the county in proportion to its ratio of membership on the commission and shall be responsible for developing a comprehensive plan for the consolidation of services and functions of cities and the county, or the formation of a charter county government that shall include, but not be limited to, the following provisions:

(a) A description of the form, structure, functions, powers, and name of the proposed charter county government;

(b) A description of the officers and their powers and duties of the proposed charter county government; and

(c) The procedures by which the original comprehensive plan may be amended.

(5) The comprehensive plan shall be consistent with the provisions of the Constitution of Kentucky and shall be advertised at least ninety (90) days before a regular election at which the voters will be asked to approve or disapprove the adoption of the comprehensive plan. The question of whether the comprehensive plan shall be adopted shall be filed with the county clerk not later than the second Tuesday in August preceding the day of the next regular election.

(6) The votes shall be counted, returns made and canvassed in accordance with the provisions of KRS Chapters 116 to 121 governing elections, and the results shall be certified by the county board of election commissioners to the county clerk. If a majority of those voting on the issue are in favor of adopting the comprehensive plan, the county board of election commissioners shall enter the fact of record and the charter county commission shall organize the charter county government or the county shall provide for the consolidation of services or functions as provided in the comprehensive plan.

Section 46. KRS 67B.010 is amended to read as follows:

The General Assembly of the Commonwealth of Kentucky determines as a legislative finding of fact that the needs of large urban areas in the field of detention, institutionalization, and rehabilitation of offenders and public wards are more specialized, acute, and distinct than the needs of smaller communities, and require programs peculiarly suited to the needs of large, urban areas, and that in order to protect, enhance, and maintain the public safety, health, and general welfare, it is necessary that ***consolidated local governments or*** fiscal courts of counties containing a city of the first class where the constitutional offices of sheriff and jailer have been consolidated, be empowered to create metropolitan correctional services departments which shall be divisions of ***the consolidated local or*** county government, and which will be vested with the duty, responsibility, and power to maintain and operate all of the correctional, detention, and rehabilitative facilities of such counties in a professional and competent manner.

Section 47. KRS 67B.020 is amended to read as follows:

As used in this chapter, the following words or terms shall have the respective meanings indicated, unless a different meaning is clearly indicated by the context:

(1) "Department" means a metropolitan correctional services department created ***or maintained*** by ***a consolidated local government or*** the fiscal court of a county containing a city of the first class, where the constitutional offices of sheriff and jailer have been consolidated, pursuant to this chapter.

(2) "Fiscal court" means the county judge/executive and justices of the peace of a county; or the county judge/executive and three (3) county commissioners elected pursuant to KRS 67.050 and 67.060, which exercises the legislative functions of a county as provided by the provisions of the Kentucky Revised Statutes.

(3) "Correctional facility" means the county jail and all other detention and penal facilities of a county ***or consolidated local government***, whether for juvenile or adult offenders, and public wards, together with all rehabilitative facilities of ***such*** a county ***or consolidated local government*** for juvenile or adult offenders and for public wards, including facilities operated by private agencies under contract with the ***consolidated local government or*** fiscal court, as such facilities may be designated from time to time by the ***consolidated local government or*** fiscal court.

(4) "Sheriff" means the sheriff of a county ***or the sheriff in a county containing a consolidated local government*** who has been duly elected by the qualified voters as provided in Section 99 of the Constitution of the Commonwealth of Kentucky.

(5) "Jailer" means the jailer of a county ***or the jailer in a county containing a consolidated local government*** who has been duly elected by the qualified voters of a county as provided in Section 99 of the Constitution of the Commonwealth of Kentucky.

(6) "Governmental agency" means any incorporated city, division of ***a*** city***, or consolidated local*** government, including the United States of America, and its agencies and instrumentalities, situated within, or conducting public operations within, a county in which a metropolitan correctional services department has been duly established.

(7) "Consolidated local government" means a local government established pursuant to KRS Chapter 67C.

Section 48. KRS 67B.030 is amended to read as follows:

(1) A metropolitan correctional services department may be established ***or maintained*** by ***ordinance of a consolidated local government or*** by order of the fiscal court of any county containing a city of the first class, in which the constitutional

offices of sheriff and jailer have been consolidated as provided in Section 105 of the Constitution of the Commonwealth of Kentucky. Said department shall, upon its creation ***or maintenance***, constitute a de jure department and division of ***the consolidated local or*** county government, having and possessing all of the enumerated powers, responsibilities, and duties hereinafter specifically set forth.

(2) Upon the creation ***or maintenance*** of a metropolitan correctional services department by the ***consolidated local government or*** fiscal court of a county containing a city of the first class, in which the constitutional offices of sheriff and jailer have been consolidated pursuant to Section 105 of the Constitution of the Commonwealth of Kentucky, all of the duties, responsibilities, and liabilities of the sheriff and jailer as set forth and contained in the Kentucky Revised Statutes, with reference to the operation and maintenance of the county jail and all county correctional facilities shall immediately be vested in the department and thereupon the sheriff and jailer shall have no further responsibility, duty and liability for the performance of said statutory duties on a personal basis; provided, however, that said sheriff shall be required to annually inspect all county correctional facilities and render reports as hereinafter provided.

Section 49. KRS 67B.040 is amended to read as follows:

The ***mayor of a consolidated local government or a*** fiscal court shall, at or subsequent to the creation ***or maintenance*** of a metropolitan correctional services department, appoint and employ an executive director ***of the metropolitan correctional services department*** who shall be well educated, trained, and experienced in the administration of correctional and rehabilitative public facilities, and who, together with assistant directors, to be appointed and employed by the ***mayor or*** fiscal court, shall have full and complete management of the department and all of its operations. The executive director of the department, together with all assistant directors shall be directly appointed by, and shall serve at the pleasure of the ***mayor or*** fiscal court, and may be removed and replaced upon order of the ***mayor or*** fiscal court.

Section 50. KRS 67B.050 is amended to read as follows:

The department shall, subject to the approval and authorization of the ***consolidated local government or*** fiscal court, generally administer, operate, and maintain all county correctional facilities, including facilities operated by private agencies under contract with the ***consolidated local government or*** fiscal court, and formulate and implement necessary correctional and rehabilitative programs. In carrying out its duties, the department shall have and possess, subject to the approval and authorization of the ***consolidated local government or*** fiscal court, all powers necessary to effectuate its purposes, including, but not by way of limitation the following:

(1) To prepare an annual budget with reference to the operations of the department for submission to the ***consolidated local government or*** fiscal court.

(2) To authorize all expenditures of the department in conformity with the annual budget, as approved by the ***consolidated local government or*** fiscal court, all such expenditures to be submitted for ***consolidated local government or*** fiscal court approval as in the case of all other county ***or consolidated local government*** agencies and departments.

(3) To prepare and submit not less than annually a report of all the activities, programs, and expenditures of the department to the ***consolidated local government or*** fiscal court.

(4) To employ and dismiss employees as may be necessary for the proper management and operation of the department and of the correctional facilities which are governed by the department, subject to the department merit system.

(5) To promulgate comprehensive rules, regulations, and bylaws for the regulation, administration, maintenance, and operation of the department, which rules, and regulations and bylaws shall be subject to approval by the ***consolidated local government or*** fiscal court.

(6) To formulate and implement penal, correctional, and rehabilitative programs, including the power to enter into contracts with private agencies for the operation of correctional or detention facilities, all of such facilities and programs to be subject to approval by the ***consolidated local government or*** fiscal court.

(7) To comply with all statutory requirements contained in the Kentucky Revised Statutes with reference to the operation, maintenance, and upkeep of all correctional facilities.

(8) To provide for the humane care, treatment, and feeding of all inmates of all correctional facilities of the county.

(9) To enter into contracts with private or governmental agencies regarding matters of correctional and rehabilitative import, including the operation, maintenance, and upkeep of correctional or detention facilities.

(10) To apply for, and accept, grants in aid from any public or private agency.

Section 51. KRS 67B.060 is amended to read as follows:

Upon the creation ***or maintenance*** of a metropolitan correctional services department by a ***consolidated local government or*** county fiscal court, ***the consolidated local government or***[~~said~~] fiscal court may create ***or maintain*** a departmental merit system, and for that purpose, establish***, maintain,*** or designate an appropriate board, commission, or committee, whose duties it shall be to classify and examine applicants seeking employment as officers or employees of the department, and in addition, to promulgate rules and regulations governing the classification, qualification, examination, appointment, promotion, demotion, suspension, and other disciplinary action within the department, with reference to all personnel of the department; and in addition thereto, to hold such hearings, public and executive, as may be reasonably required in the operation of a viable employment protection and career development merit system. All employees of the department below the rank of assistant director shall be covered by the merit system.

Section 52. KRS 67B.070 is amended to read as follows:

The sheriff of any county in which a department has been established ***or maintained*** shall, not less than annually, inspect all correctional facilities administered by the department, and shall make a written report to the ***consolidated local government or*** fiscal court and to the secretary of corrections regarding the general operation of all such correctional facilities, which report shall furnish in detail information regarding the number of prisoners, detainees and public wards who are inmates of each correctional facility; the offenses or causes for their incarceration; the length of stay with reference to same; and such further reports regarding rehabilitative programs instituted and being carried on by the department as may be required for a complete accounting and report.

Section 53. KRS 67C.101 is amended to read as follows:

(1) The governmental and corporate functions vested in any city of the first class shall, upon approval by the voters of the county at a regular or special election, be consolidated with the governmental and corporate functions of the county containing the city. This single government replaces and supersedes the governments of the pre-existing city of the first class and its county.

(2) ***(a)*** A consolidated local government shall have all powers and privileges that cities of the first class and their counties are, or may hereafter be, authorized to exercise under the Constitution and the general laws of the Commonwealth of Kentucky, including but not limited to those powers granted to cities of the first class and their counties under their respective home rule powers.

(b) A consolidated local government shall continue to exercise these powers and privileges notwithstanding repeal or amendment of any of the laws upon which the powers and privileges are based unless expressly repealed or amended for consolidated local governments.

(c) In addition, a consolidated local government shall have other powers and privileges as the government may be authorized to exercise under the Constitution and general laws of the Commonwealth of Kentucky.

(d) A consolidated local government is neither a city government nor a county government as those forms of government exist on the effective date of this Act, but it is a separate classification of government which possess the greater powers conferred upon, and is subject to the lesser restrictions applicable to, county government and cities of the first class under the Constitution and general laws of the Commonwealth of Kentucky.

(e) A consolidated local government shall be accorded the same sovereign immunity granted counties, their agencies, officers, and employees.

(3) A consolidated local government shall have power and authority to:

(a) Levy and collect taxes upon all property taxable for state purposes within the territorial limits of the consolidated local government not exempt by law from taxation;

(b) License, tax, and regulate privileges, occupations, trades, and professions authorized by law, to be uniform throughout the jurisdiction;

(c) Make appropriations for the support of the consolidated local government and provide for the payment of all debts and expenses of the consolidated local government and the debts and expenses of the county and city of which it is the successor;

(d) Issue or cause to be issued bonds and other debt instruments that counties containing a city of the first class are authorized to issue or enter into all other financial transactions as may be permitted by law;

(e) Purchase, lease, construct, maintain, or otherwise acquire, hold, use, and operate any property, real or personal, for any public purpose, and sell, lease, or otherwise dispose of any property, real or personal, belonging to a consolidated local government;

(f) Exercise the power of eminent domain for any public purpose subject to the limitations and exceptions prescribed by the Constitution and the general laws of the Commonwealth of Kentucky;

(g) Accept federal or state funds and other sources of revenue that are applicable to counties and cities of the first class;

(h) Establish, erect, maintain, and operate facilities for the confinement, detention, and rehabilitation of persons convicted of the violation of the ordinances and laws of a consolidated local government or the Commonwealth of Kentucky;

(i) Pass and enforce by fines and penalties, if necessary, all ordinances, not inconsistent with law, as are expedient in maintaining the peace, good government, health, and welfare of the inhabitants of the county and prevent, abate, and remove nuisances;

(j) Collect and dispose of garbage, junk, and other refuse, and regulate the collection and disposal of garbage, junk, and other refuse by others;

(k) Provide for the redevelopment, renewal, or rehabilitation of blighted, deteriorated, or dilapidated areas;

(l) Enforce zoning regulations;

(m) Enter into contracts and agreements with other governmental entities and with private persons, firms, and corporations;

(n) Adopt procedures for collective bargaining with its employees and for the certification of exclusive bargaining agents for groups of employees in accordance with the Constitution and general laws of the Commonwealth of Kentucky and its ordinances; and

(o) Exercise all other powers and authorities granted to counties and cities of the first class by the general laws of the Commonwealth of Kentucky.

(4) The powers of the consolidated local government shall be construed broadly in favor of the consolidated local government. The specific mention, or failure to mention, of particular powers in this section shall not be construed as limiting in any way the general or specific powers of a consolidated local government.

(5) A consolidated local government shall have power and jurisdiction throughout the total area embraced by the official jurisdictional boundaries of the county.

(6) A consolidated local government shall be known as ~~[Greater]~~............***/....................County Metro Government***, which shall be the ***combination of the names***~~[name]~~ of the largest city in existence on the date of the adoption of the consolidated government ***and the county***.

Section 54. KRS 67C.103 is amended to read as follows:

(1) The legislative authority of a consolidated local government, except as otherwise specified in KRS 67C.101 to 67C.137, shall be vested in a consolidated local government council. The members of the council shall be nominated and elected by district. There shall be only one (1) council member elected from each council district.

(2) There shall be twenty-six (26) council districts. The initial boundaries, population, and numerical designation of the council districts shall be as specified by KRS 67C.135. The population of the council districts shall be as nearly equal as is reasonably possible. For any newly consolidated local governments whose officials take office in 2003, upon taking office, the legislative council may take action to adjust the boundaries and population of the districts in order to equalize the population of the districts which may have changed as a result of recent census information. Any changes made to alter the boundaries of council districts shall be based on the population of the county as determined by the most recent United States Census or official census estimates as provided by the United States Bureau of the Census.

(3) Following the official publication of each decennial census by the United States Bureau of the Census for the area embraced by a consolidated local government, the council shall adopt an ordinance, if necessary, to redistrict the council districts. A redistricting ordinance shall provide for the distribution of population among the council districts as nearly equal as is reasonably possible. Every council district shall be compact and contiguous and shall respect existing neighborhood, community, and city boundaries whenever possible.

(4) The consolidated local government council members shall serve for a term of four (4) years beginning on the first Monday in January following their election except that the initial election of council members shall be in a manner as to provide for staggered terms for council members. At the initial election of the members of a consolidated local government council, those representing even-numbered districts shall be elected for a two (2) year term. Those representing odd-numbered districts shall be elected for a four (4) year term. Thereafter, all council members shall be elected for four (4) year terms.

(5) The members of a consolidated local government council shall be nominated and elected from the district in which they reside in partisan elections. After the initial terms of office of the first-elected council members, council members shall be elected in the same election years as other local government officials as regulated by the regular election laws of the Commonwealth and as provided in subsection (4) of this section.

(6) No person shall be eligible to serve as a member of a consolidated local government council unless he or she is at least twenty-one (21) years old, a qualified voter, and a resident within the territory of the consolidated local government and the district that he or she seeks to represent for at least one (1) year immediately prior to the person's election. A council member shall continue to reside within the district from which he or she was elected throughout the term of office.

(7) The presiding officer of a consolidated local government council shall be a president who shall be chosen annually by a majority vote of the entire council from among its members at the first meeting of the council in January. The council president has the right to introduce any resolution or recommend any ordinance and shall be entitled to vote on all matters.

(8) The consolidated local government council shall upon notice meet within seven (7) days after its members have taken office, and shall thereafter hold at least two (2) regular meetings per month. ***No newspaper notice shall be required for regular or special meetings of the consolidated local government council. However, notice of all regular and special meetings of the council and all meetings of committees of the council shall be provided to the media as provided by KRS Chapter 424.***

(9) A majority of the members of the consolidated local government council shall constitute a quorum, but a smaller number may adjourn from day to day. The consolidated local government council may enforce the attendance of members by rules or ordinances with appropriate fines. The mayor or two-thirds (2/3) of the entire membership of the council may call a special meeting at any time. Meetings shall be held in such places in the county as are provided by ordinance, and the place of meetings shall not be changed except by an ordinance for which two-thirds (2/3) of the members of the consolidated local government council have voted.

(10) The council shall determine its own rules and order of business, and keep and provide a public record of its proceedings.

The council shall provide for the publication of all ordinances in a composite code of ordinances.

(11) Council ordinances that prescribe penalties for their violation shall be enforced through the entire area of the consolidated local government unless:

(a) Otherwise provided by statute; or

(b) The legislative body of any city within the consolidated local government area has adopted an ordinance pertaining to the same subject matter that is the same as or more stringent than the standards set forth in the consolidated local government's ordinance.

(12) In the case of a vacancy on the consolidated local government council by reason of death, resignation, or removal, ***the council by majority vote of the membership of the council shall elect a qualified resident of the council district not later than thirty (30) days after the date the vacancy occurs. Should the council fail to elect, by majority vote of the membership of the council, a qualified person to fill the vacancy within thirty (30) days, the mayor of the consolidated local government shall fill the vacancy by appointment of a qualified person for the unexpired term***[~~it shall be filled by appointment of the Governor, in accordance with Section 152 of the Constitution, for the unexpired term. Upon notification of the vacancy by the county clerk, the Governor shall appoint a person to fill a vacancy on the consolidated local government council not later than thirty (30) days after the date on which the vacancy occurs~~].

(13) All legislative powers of a consolidated local government are vested in the consolidated local government council. The term "legislative power" is to be construed broadly and shall include the power to:

(a) Enact ordinances, orders, and resolutions, and override a veto of the mayor by a two-thirds (2/3) majority of the membership of the legislative council;

(b) Review the budgets of and appropriate money to the consolidated local government;

(c) Adopt a budget ordinance;

(d) Levy taxes, subject to the limitations of the Constitution and the laws of the Commonwealth of Kentucky;

(e) Establish standing and temporary committees; and

(f) Make independent audits and investigations concerning the affairs of the consolidated local government.

(14) The consolidated local government council shall be known as the legislative council of[~~ Greater~~] ....***/................. County Metro Government***, which shall be ***a combination of***[~~completed by~~] the ***names***[~~name~~] of the largest city in existence in the county on the date of the consolidation ***and the county***.

Section 55. KRS 67C.105 is amended to read as follows:

(1) All executive and administrative power of the government shall be vested in the office of the mayor. The term "executive and administrative power" shall be construed broadly. The mayor shall be the chief executive of a consolidated local government formed under the provisions of KRS 67C.101 to 67C.137.

(2) The mayor shall be nominated and elected in partisan elections for a term of four (4) years in the same election years as other local government officials as regulated by the regular election laws of the Commonwealth. The mayor shall assume office on the first Monday in January following his or her election. He or she shall serve until a successor qualifies and may serve for no more than three (3) consecutive terms after which time he or she shall be prohibited from running for election or being appointed as mayor for a period of at least four (4) years.

(3) The mayor shall be at least twenty-five (25) years old, a qualified voter, a member of his or her political party, and a resident of the territory encompassing the consolidated local government for a period of at least one (1) year prior to his or her election as mayor. The mayor shall continue to reside within the geographic boundary of the consolidated local government throughout his or her term of office.

(4) Except as otherwise provided in KRS 67C.101 to 67C.137, the mayor shall have all the power and authority that the mayor of the city of the first class and the county judge/executive exercised under the Constitution and the general laws of the Commonwealth of Kentucky prior to the consolidation.

(5) The mayor is authorized to supervise, administer, and control all departments and agencies as may be created by KRS 67C.101 to 67C.137 or created by ordinance. The mayor shall appoint all department and agency directors. The appointees shall serve at the pleasure of the mayor. Specifically, the mayor shall:

(a) Prepare and submit an annual report coinciding with the fiscal year, on the state of the consolidated local government, to be presented at a public meeting of the council;

(b) Submit an annual budget;

(c) Oversee the administration and implementation of the adopted budget ordinance;

(d) Enforce the ordinances of the consolidated local government;

(e) Supervise all officers, agents, employees, cabinets, departments, offices, agencies, functions, and duties of the consolidated local government;

(f) Call special meetings of the consolidated local government council;

(g) Appoint and remove his or her own staff at his or her own pleasure;

(h) Execute written contracts or obligations of the consolidated local government; and

(i) Approve or veto ordinances and resolutions adopted by the consolidated local government council.

(6) In case the office of mayor becomes vacant by reason of death, resignation, or removal, ***the members of the legislative council of the consolidated local government shall by a majority vote of the membership of the council elect a qualified person to fill the vacancy in the office of the mayor not later than thirty (30) days after the date on which the vacancy occurs for the unexpired term.***~~[it shall be filled by appointment of the Governor, in accordance with Section 152 of the Constitution, for the unexpired term. The Governor shall appoint a person to fill a vacancy in the office of mayor not later than thirty (30) days after the date on which the vacancy occurs. If a vacancy occurs in the office of mayor,]~~ The members of the legislative body of the consolidated local government ***may***~~[shall]~~ elect one (1) of their members to serve as temporary mayor until ***they are able to hold the election to fill the vacancy for the unexpired term. If the legislative council fails to elect a person to fill the vacancy within thirty (30) days after the vacancy occurs,*** the Governor ***shall fill***~~[fills]~~ the vacancy in the office ***by appointment of a qualified person for the unexpired term***~~[, notwithstanding the provisions of KRS 61.080(2) to the contrary]~~.

(7) The mayor of a consolidated local government shall be known as the mayor of ~~[Greater]~~ .... ***/................ County Metro Government***, which shall be ***a combination of***~~[completed by]~~ the ***names***~~[name]~~ of the largest city in existence in the county on the date of the consolidation ***and the county***.

Section 56. KRS 67C.107 is amended to read as follows:

(1) Upon public approval at a regular or special election of a consolidation of a city of the first class and its county, all regular employees of the city of the first class and the county shall become employees of the consolidated local government.

(2) All rights, privileges, and protections attributed to all regular employees by a civil service or classified service system established by a city of the first class or a county containing a city of the first class shall continue in effect until changed by statute or ordinance when applicable.

(3) A consolidated local government shall recognize and shall continue to bargain with any bargaining unit consisting of public employees recognized by either the previously existing city or county government.

(4) All labor contracts ***under renegotiation or*** in existence in a city of the first class or a county containing a city of the first class on the effective date of a local government consolidation shall***, if being renegotiated, continue to be renegotiated by the consolidated local government, and if in existence,*** continue in effect until the expiration of the terms of the contracts at which time new contracts shall be renegotiated between the consolidated local government and affected labor representatives.

(5) Upon the establishment of a consolidated local government, all rights, privileges, and protections of beneficiaries of a policemen's retirement fund and a firefighter's pension fund in a city of the first class shall continue in effect until all benefits due each beneficiary have been paid.

Section 57. KRS 67C.109 is amended to read as follows:

~~[A consolidated local government shall be deemed a county and shall be deemed an incorporated city of the first class under the Constitution and the general laws of the Commonwealth of Kentucky.]~~For the purpose of applying for or receiving any aid or grant-in-aid from the Commonwealth of Kentucky or the government of the United States***, a consolidated local government shall be deemed a county and shall be deemed an incorporated city of the first class under the Constitution and general laws of the Commonwealth of Kentucky***.

Section 58. KRS 67C.115 is amended to read as follows:

(1) Upon the successful passage of the question to consolidate a city of the first class and its county, ***all***~~[the]~~ ordinances~~[, regulations,]~~ and ***resolutions***~~[orders]~~ of the previously existing city of the first class and ***all ordinances and resolutions of*** the county shall ***become effective ordinances and resolutions of***~~[initially govern]~~ the consolidated local government ***until repealed, modified, or amended in accordance with the following order of precedence:***~~[along with any new ordinances, resolutions, or orders that may be enacted.]~~

(a) If a city ordinance conflicts with a county ordinance, the county ordinance shall prevail and shall become effective countywide; and

(b) If a city ordinance addresses a subject matter not addressed by a county ordinance, the city ordinance shall become effective countywide; and

(c) If a county ordinance addresses a subject matter not addressed by a city ordinance, the county ordinance shall become effective countywide.

Notwithstanding paragraph (a) of this subsection and in the event a uniform land development code has not been jointly adopted by the city and county prior to the effective date of a consolidated local government, the historic preservation and landmarks ordinances, and the zoning regulations of the city adopted pursuant to KRS Chapter 100, shall prevail and become effective countywide.

(2) Ordinances and resolutions of either the city of the first class or its county in existence on the effective date of a local government consolidation which conflict with other provisions of this chapter shall be void. Except as provided in KRS 67C.123(2), any ordinance, resolution, or order in effect in a city of the first class or its county on the date a

consolidated local government takes effect shall expire five (5) years from that date unless amended or reenacted by the consolidated local government.

(3) All ordinances of the city and county creating agencies and boards and interlocal agreements shall survive and be deemed reenacted by the council. All members may serve the balance of the terms to which they were appointed and until their successors are appointed and duly qualified according to law.

(4) For purposes of this section, a conflict shall be deemed to exist between ordinances or resolutions, or the provisions of this Chapter 67C, where any rights, remedies, entitlements, or the enforcement thereof cannot reasonably be reconciled.

[~~(2) Any ordinance, regulation, or order in effect in a city of the first class or its county on the date of the adoption of a consolidated local government shall expire five (5) years from the date the new government takes effect unless amended or reenacted by the new consolidated local government.~~]

(5)[~~(3)~~] The county attorney shall serve as the legal advisor and representative to the consolidated local government ***and except for those duties pertaining to fiscal court set forth in KRS 69.210, the county attorney shall retain and exercise all other duties, powers, and rights delegated to that office by law***.

[~~(4) The county attorney shall review all ordinances, resolutions, and orders in effect in the city of the first class and the county in order to identify conflicting language between the varying ordinances, resolutions, and orders. The county attorney shall present a listing of the conflicts between the ordinances, resolutions, and orders to the legislative body of the consolidated local government at its first meeting.~~]

(6) Wherever the words "county judge" or "county judge/executive" appear in any resolution or ordinance in existence in a city of the first class or in a county containing a city of the first class as of the effective date of the establishment of a consolidated local government, they shall be deemed to mean the mayor of the consolidated local government.

Section 59. KRS 67C.121 is amended to read as follows:

(1) All offices provided for in Section 99 ***and 144*** of the Constitution of Kentucky shall remain in existence upon the consolidation of a city of the first class with its county. However, all existing powers and duties of these offices shall be assigned to the consolidated local government.[~~ To the extent permitted by the Constitution of Kentucky, the office of county judge/executive, justices of the peace, and county commissioners may be statutorily limited in a consolidated local government.~~]

(2) Nothing in KRS 67C.101 to 67C.137 shall alter or affect the election or term of any county court clerk, county attorney, sheriff, jailer, coroner, surveyor, or assessor. Nor shall any provision of KRS 67C.101 to 67C.137 be construed to alter or affect the powers, duties, or responsibilities of these officers as prescribed by the Constitution and laws of the Commonwealth of Kentucky. Any funding responsibilities or oversight of any constitutional officers or their employees previously exercised by the county, which shall include the approval of the annual budget of the sheriff's and the county clerk's offices, shall be transferred to the consolidated local government.

Section 60. KRS 67C.123 is amended to read as follows:

(1) The tax structure, tax rates, and level of services in effect in the city of the first class and its county upon the adoption of a consolidated local government shall remain in effect after the adoption of the consolidated local government and shall remain the same until changed by the newly elected consolidated local government council.

(2) Notwithstanding the provisions of KRS 67C.115(2), all contracts, bonds, franchises and other obligations of the city of the first class and of the county in existence on the effective date of a consolidated local government shall continue in force and effect as obligations of the consolidated local government and the consolidated local government shall succeed to all rights and entitlements thereunder. All conflicts in the provisions of the contracts, bonds, franchises, or other obligations shall be resolved in a manner that does not impair the rights of any parties thereto.

Section 61. KRS 68.130 is amended to read as follows:

A consolidated local government or the fiscal court of each county containing a city of the first class may appoint an auditor and an assistant auditor, to hold office at the pleasure of the ***consolidated local government or*** fiscal court. The auditor and assistant auditor shall each receive an annual salary to be fixed by the ***consolidated local government or*** fiscal court and paid[~~ in monthly installments~~] out of the ***consolidated local government or*** county levy. They shall each execute bond with an incorporated surety company authorized and qualified to become surety on bonds in this state, or with at least two (2) solvent and responsible individuals as surety, the bonds and sureties to be approved by the ***consolidated local government or*** fiscal court.

Section 62. KRS 68.140 is amended to read as follows:

The auditor and assistant auditor shall make regular audits of all accounts and records of the ***consolidated local government or*** fiscal court and of all other agencies whose revenue is provided in whole or in part from taxes levied or funds appropriated by the ***consolidated local government or*** fiscal court, and shall cause correct accounts and records to be kept of all receipts and disbursements of county funds, make periodical reports as required by the ***consolidated local government or*** fiscal court, and perform any other related duties imposed upon them by the ***consolidated local government or*** fiscal court.

Section 63. KRS 68.160 is amended to read as follows:

Upon the establishment of a consolidated local government in a county which contained a city of the first class, the mayor

may, every four (4) years, appoint a purchasing agent for a term of four (4) years. The fiscal court of each county containing a city of the first class shall, every four (4) years, beginning in 1928, appoint a purchasing agent for a term of four (4) years, the term of the first purchasing agent to begin May 1, 1928.

Section 64. KRS 69.130 is amended to read as follows:

In any county containing a ***consolidated local government or*** city of the first class***,*** the ***consolidated local government or*** fiscal court shall provide an automobile for the use of the Commonwealth's attorney to assist him ***or her*** in his ***or her*** official duties, to be paid for out of the~~[county]~~ levy ***of the consolidated local government or county***. The necessary expenses incurred in running, keeping and repairing the automobile for official work shall be paid out of the~~[county]~~ levy ***of the consolidated local government or county*** upon requisition for such expenses by the Commonwealth's attorney.

Section 65. KRS 69.210 is amended to read as follows:

(1) The county attorney shall attend the fiscal court ***or consolidated local government*** and conduct all business~~[in that court]~~ touching the rights or interests of the county ***or consolidated local government***, and when so directed by the fiscal court ***or consolidated local government,*** he ***or she*** shall institute, defend and conduct all civil actions in which the county ***or consolidated local government*** is interested before any of the courts of the Commonwealth.

(2) The county attorney shall attend to the prosecution in the juvenile session of the District Court of all proceedings held pursuant to petitions filed under KRS Chapter 610 and over which the juvenile session of the District Court has jurisdiction pursuant to KRS Chapter 610.

(3) The county attorney shall give legal advice to the fiscal court ***or consolidated local government*** and the several county officers in all matters concerning any county ***or consolidated local government*** business within their jurisdiction. He ***or she*** shall oppose all unjust or illegally presented claims.

(4) A county attorney serving in a county***, consolidated local government,*** or urban-county which is part of a judicial circuit described by KRS 69.010(2), in addition to the duties in subsections (1) and (2) of this section, shall have the following duties:

(a) He ***or she*** shall attend all civil cases and proceedings in his ***or her*** county in which the Commonwealth is interested; and

(b) He ***or she*** shall advise the collector of money due the Commonwealth in the county ***or consolidated local government*** in regard to motions against delinquent collecting officers for failing to return executions, and shall prosecute the motions. In no case shall the county attorney take a fee or act as counsel in any case in opposition to the interest of the county ***or consolidated local government***.

Section 66. KRS 69.320 is amended to read as follows:

In counties containing a ***consolidated local government or*** city of the first class***,*** the stenographer for the county attorney shall have the same power of administering an oath as a notary public.

Section 67. KRS 70.030 is amended to read as follows:

(1) The sheriff may appoint his ***or her*** own deputies and may revoke the appointment at his ***or her*** pleasure except where that revocation is prohibited by the provisions of KRS 70.260 to 70.273. In a county containing a ***consolidated local government or*** city of the first class with a deputy sheriff merit board~~,~~ the term of office of a deputy shall continue from sheriff to sheriff unless a deputy is removed according to the provisions of KRS 70.260 to 70.273. Before any deputy executes the duties of his ***or her*** office, he ***or she*** shall take the oath required to be taken by the sheriff.

(2) The sheriff may appoint nonsworn clerical, technical, professional, and support personnel to assist him ***or her*** in the performance of the duties of his ***or her*** office. All nonsworn personnel shall serve at the pleasure of the sheriff.

(3) No sheriff whose county has adopted a deputy sheriff merit board under KRS 70.260 shall appoint a deputy who is a member of the immediate family of the sheriff. The term "member of the immediate family" has the meaning given in KRS 70.260.

(4) A sheriff's office may, upon the written request of the sheriff, participate in the Kentucky Law Enforcement Foundation Fund Program authorized by KRS 15.410 to 15.510 without the county establishing a deputy sheriff merit board. This subsection shall not prohibit the sheriff from requesting the ***consolidated local government or the*** fiscal court to establish a deputy sheriff merit board.

Section 68. KRS 70.260 is amended to read as follows:

(1) The primary legislative body of each county may enact an ordinance creating a deputy sheriff merit board, which shall be charged with the duty of holding hearings, public and executive, in disciplinary matters concerning deputy sheriffs. For the purpose of KRS 70.260 to 70.273, the primary legislative body of each county that does not have an urban-county***, consolidated local government,*** or charter county government shall be the fiscal court.

(2) The reasonable and necessary expenses of the board, including the funds necessary to retain an attorney to advise the board on legal matters, shall be paid out of the fees and commissions collected by the sheriff. If the fees and commissions are not sufficient to pay the expenses of the board and the other expenses authorized by statute to be paid from these fees and commissions, the sheriff may negotiate with the primary legislative body to determine a method of paying all or part of the

expenses of the board.

(3) The board shall consist of five (5) members, two (2) members appointed by the county judge/executive or the chief executive officer of an urban-county government ***or the chief executive officer of a consolidated local government*** with approval by the primary legislative body, two (2) members appointed by the county sheriff, and one (1) member elected by the deputy sheriffs of the county. Each board appointee shall be at least thirty (30) years of age and a resident of the county. No person shall serve on the board who is a deputy sheriff or who holds any elected public office. No person shall be appointed to the board who is a member of the immediate family of the sheriff of the county served by the board. The members of the board shall not receive a salary but shall receive reimbursement for necessary expenses.

(4) All appointments shall be for two (2) years, and any vacancies shall be filled by the sheriff or county judge/executive, or the chief executive officer of an urban-county government ***or consolidated local government*** responsible for the appointment of the departing board member.

(5) The board shall elect a chairman from its membership and keep an accurate record of its proceedings.

(6) The board shall meet when a disciplinary matter concerning a deputy sheriff is brought to its attention or at other times at the discretion of the board, upon notification of its members.

(7) Three (3) members shall constitute a quorum in all matters which may come before the board.

(8) For the purpose of this section, "member of the immediate family" means a person's father, mother, brother, sister, spouse, son, daughter, aunt, uncle, son-in-law, or daughter-in-law.

(9) An ordinance, adopted under subsection (1) of this section by a county ***or consolidated local government***, may exclude deputy sheriffs who serve in policy-making or confidential positions from coverage by the merit system. If the ordinance makes this exclusion, a deputy sheriff who is covered by the merit system and who accepts an appointment in a policy-making or confidential position shall be deemed to have received a leave of absence from the merit system during the incumbency of that position. If he ceases to serve in a policy-making or confidential position but continues to serve as a deputy, he shall be restored to coverage at the same classification and rank that he held prior to his policy-making position under the merit system. A deputy who is not covered by the merit system at the time he is appointed to a policy-making or confidential position shall be deemed not to be part of the merit system and shall not be included in the merit system when he ceases to serve in that position.

Section 69. KRS 70.262 is amended to read as follows:

(1) In any county containing a ***consolidated local government or*** city of the first class that has adopted a merit system under KRS 70.260 to 70.273, deputies subject to the merit system may organize, form, join, or participate in organizations in order to engage in lawful concerted activities for the purpose of collective bargaining or other mutual aid and protection, and to bargain collectively through a representative of their own free choice. Deputies shall also have the right to refrain from any or all of these activities but shall be subject to the lawful provisions of any collective bargaining agreement entered into under this section. Strikes by deputies of any collective bargaining unit shall be prohibited at any time.

(2) In any county containing a ***consolidated local government or*** city of the first class that has adopted a merit system under KRS 70.260 to 70.273, the sheriff shall contract with a representative of the deputies described in subsection (1) of this section employed by the sheriff where the representative has established representation of a majority of the deputies, with respect to wages, hours, and terms and conditions of employment, including execution of a written contract incorporating any agreement reached between the sheriff and the representative. The sheriff shall not be required to bargain over matters of inherent managerial policy.

Section 70. KRS 70.320 is amended to read as follows:

(1) The appointment of deputy constables shall be authorized only in counties containing a first or second-class city ***or a consolidated local government***. In[~~ such~~] counties ***containing a city of the first or second class or a consolidated local government,*** each constable may appoint one (1) or more deputies with the consent of the county judge/executive ***or the mayor, in a consolidated local government, as the case may be***. The constable and his ***or her*** surety are liable on his ***or her*** bond for all the acts and omissions of his ***or her*** deputies.

(2) Deputy constables may be removed at any time for any cause deemed sufficient by the constable by order of the county judge/executive ***or the mayor in a consolidated local government, as the case may be,*** entered after filing of a written direction by the constable.

(3) Each deputy constable in counties containing a ***consolidated local government or*** city of the first class shall be compensated for his ***or her*** services by salary fixed by the ***consolidated local government or*** fiscal court, and paid out of the[~~ county~~] levy ***of the consolidated local government or county***.

Section 71. KRS 70.542 is amended to read as follows:

(1) Except in counties containing a ***consolidated local government or*** city of the first class, or counties containing an urban-county government, the fiscal court of any county in which there is an established county police force pursuant to KRS 70.540, may provide for the establishment or abolishment of an auxiliary county police force to perform duties within the county upon such terms and conditions as the fiscal court deems necessary and proper. The fiscal court shall prescribe the number of members comprising such auxiliary county police force, and prescribe rules and regulations that shall govern

the powers and duties of the members of such auxiliary county police force, unless otherwise provided in subsection (2) of this section.

(2) A member of an auxiliary county police force shall:

(a) Be appointed by the county judge/executive and serve at his ***or her*** pleasure;

(b) Be answerable and under the direction of the county judge/executive, except when the county judge/executive delegates such authority to the chief officer of the county police force;

(c) Not receive any compensation or benefits for his ***or her*** time or service, except that the fiscal court may provide for the payment of any reasonable and necessary expenses incurred by a member of the auxiliary county police force in the conduct of his ***or her*** official duties; and

(d) Be appointed regardless of race, color, creed or position.

(3) Before any person is appointed as a member of an auxiliary county police force, he ***or she*** shall give bond to the county judge/executive in an amount as prescribed by the fiscal court. The fiscal court may authorize the premium therefor to be paid out of the general funds of the county.

Section 72. KRS 71.110 is amended to read as follows:

The offices of sheriff and jailer in counties containing a ***consolidated local government, a*** city of the first class***,*** or an urban-county government shall be consolidated, but the office of sheriff shall be retained; and the sheriff hereafter in such counties shall perform the duties of jailer.

Section 73. KRS 72.435 is amended to read as follows:

In the event it is necessary for the coroner to order a body to be transported or exhumed, payment~~[therefor]~~ shall be made by the fiscal court***, consolidated local government,*** or urban-county government, whichever is appropriate, upon certification by the coroner that the services were rendered.

Section 74. KRS 72.450 is amended to read as follows:

(1) A coroner who has possession of a dead body or a part thereof shall make a bona fide attempt to notify the spouse, if any, or next of kin of the decedent's death. In the event the coroner is unable to locate the spouse, if any, or next of kin, he ***or she*** may cause the body to be buried at the expense of the fiscal court***, consolidated local government,*** or urban-county government, whichever is appropriate.

(2) In the event the body is buried at public expense, the coroner shall take possession of all money or other property found on or belonging to the decedent and shall deliver same to the fiscal court***, consolidated local government,*** or urban-county government, whichever is appropriate. Any money or other property found on the body of the decedent or belonging to him ***or her*** shall be delivered by the coroner to the fiscal court***, consolidated local government,*** or urban-county government, whichever is appropriate, to help defray burial expenses. Any excess funds shall escheat to such governmental agency one (1) year thereafter.

(3) In lieu of having an unclaimed body buried at public expense, the coroner may deliver such body or part thereof to a state medical school in accordance with the provisions of KRS 311.300 to 311.350.

Section 75. KRS 72.455 is amended to read as follows:

The fiscal court, ***consolidated local government,*** or urban-county government, whichever is appropriate, shall pay the expense of conducting a search for a body where such search has been ordered by the coroner.

Section 76. KRS 75.031 is amended to read as follows:

(1) (a) Upon creation of a fire protection district or a volunteer fire department district as provided in KRS 75.010, the affairs of the district shall be conducted by the board of trustees consisting of seven (7) members, four (4) to be elected by the members of the district as hereinafter set out and three (3) to be appointed by the county judge/executive. Two (2) members of the board of trustees shall be elected by the members of the firefighters of the district and shall be members of the district. No more than one (1) of the two (2) firefighter trustees may be an employee of the fire protection district or volunteer fire department district. Two (2) members of the board of trustees shall be property owners who own real or personal property which is subject to the fire protection tax pursuant to KRS 75.040, who personally reside in the district, and who are not active firefighters and shall be elected by the property owners of the district. Property owners voting to select representatives to the board of trustees shall have attained the age of eighteen (18). The county judge/executive of the county in which the greater part of the district is located shall, with the approval of the fiscal court, appoint three (3) members of the board of trustees. In counties containing a city of the first class, trustees appointed by the county judge/executive to serve in volunteer fire prevention districts shall reside within the boundaries of that county. ***In counties governed by a consolidated local government, the trustees in volunteer fire prevention districts shall be appointed by the mayor to serve and shall reside within the boundaries of the consolidated local government.*** At the first election held after the district is formed, one (1) firefighter shall be elected to serve on the board of trustees for a period of one (1) year and one (1) for a period of three (3) years, and one (1) nonfirefighter property owner shall be elected to serve on the board of trustees for a period of two (2) years and one (1) for a period of four (4) years. On the expiration of the respective terms, the successor to each shall have the same qualifications as his or her predecessor

and shall be elected for a term of four (4) years. The original appointed members of the board of trustees shall be appointed for terms of one (1), two (2), and three (3) years respectively. On the expiration of the respective terms, the successors to each shall be appointed for a term of three (3) years. ***Upon the establishment of a consolidated local government, incumbent members shall continue to serve until the expiration of their current term of office.*** In the event of a vacancy in the term of an appointed or elected trustee, the county judge/executive shall appoint with the approval of the fiscal court a trustee for the remainder of the term***, except in a county containing a consolidated local government. In a county containing a consolidated local government, the mayor shall appoint a trustee for the remainder of the term***.

(b) An appointed trustee may be removed from office as provided by KRS 65.007.

(c) No person shall be an elected trustee who, at the time of his ***or her*** election, is not a citizen of Kentucky and has not attained the age of twenty-one (21).

(d) Unless otherwise provided by law, an elected firefighter trustee may be removed from office ***by the mayor of a consolidated local government, or in a county not containing a consolidated local government,*** by the county judge/executive of the county in which the greater part of the district is located***. An elected firefighter trustee may be removed*** after a hearing with notice as required by KRS Chapter 424, for inefficiency, neglect of duty, malfeasance or conflict of interest. The hearing shall be initiated and chaired by the county judge/executive ***of a county or the mayor of a consolidated local government***, who shall prepare a written statement setting forth the reasons for removal. The trustee to be removed shall be notified of his ***or her*** proposed removal and the reasons for the proposed removal by registered mail sent to his ***or her*** last known address at least ten (10) days prior to the hearing. The person proposed to be removed may employ counsel to represent him ***or her***. A record of the hearing shall be made by the county judge/executive ***or mayor respectively***.

(e) The removal of an elected firefighter trustee of a fire protection district shall be subject to the approval of the fiscal court of the county in which the greater part of the district is located ***in those counties not containing a consolidated local government or the legislative council in a county containing a consolidated local government***.

(f) An elected firefighter trustee removed pursuant to paragraphs (c) and (d) of this subsection may appeal, within ten (10) days of the rendering of the decision of the fiscal court ***or legislative council, respectively***, to the Circuit Court of the county in which the greater part of the district is located. The scope of the appeal shall be limited to whether the county judge/executive***, mayor, legislative council,*** or the fiscal court ***respectively,*** abused their discretion in removing the trustee.

(2) The elective offices of members of the board of trustees shall be filled by an election to be held once each year on the fourth Saturday of June between the hours of 11:00 a.m. and 2:00 p.m. The polls shall be located at the principal fire house in the district. The date, time, and place of the election shall be advertised in accordance with KRS 424.120. This notice shall be advertised at least thirty (30) days prior to the election date and shall include the names and addresses of the candidates to be voted on for each position of trustee. In lieu of the published notice for the election of the firefighter trustees, written notice containing the information required to be advertised may be sent by first-class mail to each member of the firefighters of the fire protection district or volunteer fire department district, addressed to the firefighter at his ***or her*** residence, at least thirty (30) days prior to the election date. The nominations for candidates for trustees both representing the firefighters and the property owners residing in the district shall be made in accordance with the bylaws of the department. The terms of the three (3) trustees appointed by the county judge/executive ***or mayor*** shall start at the same time as the terms of the elected trustees. On or before the beginning of the second fiscal or calendar year, depending on which basis the fire protection or volunteer fire department district is being operated, after June 16, 1966, all departments organized prior to June 16, 1966, shall increase their boards of trustees from three (3) to seven (7) members and elect the elective members in the manner set forth herein.

(3) The trustees shall elect from their number a chairman, a secretary and a treasurer, the latter of whom shall give bond in an amount as shall be determined by the county judge/executive of the county in which the greater part of the fire protection district is located ***or the mayor in a consolidated local government***, conditioned upon the faithful discharge of the duties of his ***or her*** office, and the faithful accounting for all funds which may come into his or her possession as treasurer. The premiums on the bonds shall be paid out of the funds of the district.

Section 77. KRS 76.030 is amended to read as follows:

(1) ***Except in counties containing a consolidated local government,*** the business, activities, and affairs of such district shall be managed, controlled and conducted by a board composed of seven (7) members, four (4) of whom shall be appointed by the mayor of such city subject to the approval of the city legislative body, and three (3) of whom shall be appointed by the county judge/executive of such county subject to the approval of the fiscal court, and which seven (7) members thus appointed shall constitute the board of such district. Not more than four (4) members of a seven (7) member board nor more than five (5) members of an eight (8) member board shall be affiliated with the same political party. After March 19, 1977, members shall be so selected and appointed so that no more than one (1) member resides in any one (1) state senatorial district. In a county containing a city of the first class, the county judge/executive, with approval of the fiscal court, shall appoint one (1) additional member to the board of such district who may be a resident of any state senatorial

district in the county.

(2) Each such member shall be at least twenty-five (25) years of age; each appointed by the mayor shall be a resident of such city and wherein he shall have actually resided continuously for at least three (3) years next prior to appointment; each appointed by the county judge/executive shall be a resident of such county and wherein he shall have actually resided continuously for at least three (3) years next prior to appointment. No officer or employee of such city or county, whether holding a paid or unpaid position, shall be eligible for appointment as a member of such board.

(3) The term of each of such members shall be four (4) years, ending on July first. A member is eligible to succeed himself and shall continue in office until his successor has been appointed and qualified. Vacancies in the membership shall be filled for the unexpired portion of the term by the mayor or the county judge/executive as the case may be, subject to the same approval.

(4) Any member of the board appointed by the mayor may be removed by the mayor, for cause, after hearing by the mayor, and after at least ten (10) days' notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the mayor shall be final and removal results in vacancy in such office. Any member of the board appointed by the county judge/executive may be removed by the county judge/executive, for cause, after hearing by the county judge/executive, and after at least ten (10) days' notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the county judge/executive shall be final and removal results in vacancy in such office.

(5) The members of the board shall be paid seventy-five dollars ($75) for each meeting of the board attended by such member, and fifty dollars ($50) for attendance at any meeting of a committee which has been authorized or duly appointed by the board. But in no instance shall any member of said board be paid for more than one (1) meeting per day, nor more than eighteen hundred dollars ($1800) during any fiscal year of the board, nor for more than twenty-four (24) board meetings and twenty-eight (28) committee meetings held during any fiscal year of said board.

(6) Notwithstanding subsection (3) of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the terms of the members of the board shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, the mayor shall adjust the terms of the sitting members appointed by the mayor so that the terms of two (2) members expire in one (1) year, the term of one (1) member expires in two (2) years, and the term of one (1) member expires in three (3) years; the county judge/executive with the approval of the fiscal court shall adjust the terms of the sitting members appointed by the county judge/executive so that the term of one (1) member expires in one (1) year, the term of one (1) member expires in two (2) years and the term of one (1) member expires in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years.

(7) Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing that city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, all members of the board shall be appointed by the mayor of the consolidated local government for a term of three (3) years. Incumbent members upon the establishment of the consolidated local government shall continue to serve as members of the board for the time remaining on their current term of appointment.

Section 78. KRS 76.060 is amended to read as follows:

(1) The board shall, in July of each year, elect from its members a chairman and a vice chairman, who shall be of different political party affiliation. It shall employ a secretary-treasurer and a chief engineer, neither of whom is a member of the board. The secretary-treasurer and the chief engineer may be removed by the board for cause, after hearing by it and after at least ten (10) days' notice in writing has been given to the secretary-treasurer or chief engineer, as the case may be, which notice shall embrace the charges preferred against him ***or her***. At the hearing he ***or she*** may be represented by counsel. The finding of the board is final. The secretary-treasurer and the chief engineer shall each devote his ***or her*** entire time and attention exclusively to the services of the board. The board may employ, and remove at pleasure, professional and technical advisers, experts, and other employees, skilled or unskilled, as it deems requisite for the performance of its duties.

(2) The board shall require the secretary-treasurer and the chief engineer each to execute a bond and may exact from such of its other officers and employees bonds as it deems expedient. All bonds shall be payable to the district in the sums as the board may fix, with approved corporate surety, and premiums therefor shall be paid by the district. The bonds shall obligate the makers thereof to faithfully perform the duties of their respective offices and positions and to fully account for and pay over all money, property, or other thing of value of the district, which may come to their hands, respectively. The board shall fix the salaries and compensation of the officers and employees it engages, which salaries and compensation, however, shall be in line with that paid by the city and county for similar services.

(3) Notwithstanding other provisions of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the executive director, secretary-treasurer and chief engineer shall be appointed by and serve at the joint pleasure of the mayor, and the county judge/executive with the approval of the fiscal court pursuant to KRS 67.040. ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing such city have had in effect a cooperative compact pursuant to KRS 79.310 to***

79.330, the executive director, secretary-treasurer, and chief engineer shall be appointed by and serve at the pleasure of the mayor.

Section 79. KRS 77.065 is amended to read as follows:

(1) The members of the fiscal court of a county shall be, and they are hereby designated as, and empowered to act as, ex officio the air pollution control board of the air pollution control district in such county.

(2) All county officers, their assistants, clerks, deputies and employees, and all other county employees shall be ex officio officers, assistants, deputies, clerks and employees respectively of the air pollution control district in the county in which they are employed. Except as otherwise provided in this chapter, they shall perform respectively the same various duties for the air pollution control district as for the county without additional compensation, in order to carry out the provisions of this chapter.

(3) The provisions of ***subsections (1) and (2) of*** this section shall not be applicable to any county containing a city of the first or second class ***or a consolidated local government***.

(4) Notwithstanding any provision of this chapter to the contrary, whenever a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the county shall provide all staff support, including a secretary-treasurer and an air pollution control officer, to the air pollution control board through county officers, assistants, clerks, deputies and employees. In such case, the staff of the air pollution control board, including the secretary-treasurer and the air pollution control officer, shall be deemed county employees and shall be subject to the control of fiscal court. At the time the compact takes effect, the employees of the air pollution control district shall be transferred to the service of the county government; provided that all such employees who are in the classified service at such time shall be continued in the classified service administered by county government. ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing that city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the employees of an air pollution control district shall be deemed to be employees of the consolidated local government and the provisions of this subsection shall be applied to the consolidated local government.***

Section 80. KRS 77.070 is amended to read as follows:

(1) In a county containing a city of the first or second class, the air pollution control board of the air pollution control district shall consist of seven (7) members, three (3) of whom shall be appointed by the county judge/executive, subject to the approval of the fiscal court, and four (4) of whom shall be appointed by the mayor of the city of the first or second class within such county. The mayoral appointments shall be subject to the approval of the legislative body of the city.

(2) The mayor shall appoint, subject to the approval of the legislative body of the city, one (1) member for a term of one (1) year, one (1) member for a term of two (2) years, one (1) member for a term of three (3) years, and one (1) member for a term of four (4) years, and the county judge/executive, subject to the approval of the fiscal court, shall appoint one (1) member for a term of two (2) years, one (1) member for a term of three (3) years, and one (1) member for a term of four (4) years, and upon the expiration of each of said terms respectively, and thereafter, the term of each of such members shall be four (4) years, and until their successors are appointed and qualified.

(3) All air pollution control board members appointed pursuant to this section must be freeholders within the district; those appointed by the county judge/executive must be residents of such county, and those appointed by ***a***[~~the~~] mayor must be residents of ***their respective***[~~such~~] city ***or consolidated local government***.

(4) Not more than four (4) of the seven (7) board members appointed pursuant to this section shall be of the same political party affiliation, nor shall an officer or employee of such city***, consolidated local government,*** or county, whether holding a paid or unpaid position, be eligible for appointment to the board.

(5) A member of the air pollution control board is eligible to succeed himself ***or herself***. A vacancy in the membership shall be filled by an appointee of the mayor or of the county judge/executive as the case may be, for the unexpired portion of the term. An appointee to a vacancy shall have the same qualifications as any regularly appointed member.

(6) Any member of the board appointed by a mayor may be removed, for cause, after a hearing, by the legislative body of such city ***or consolidated local government***, and after ten (10) days notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the legislative body shall be final and removal results in vacancy in such office.

(7) Any member of the board appointed by a county judge/executive may be removed, for cause, after a hearing, by the fiscal court of such county, and after ten (10) days notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the fiscal court shall be final and removal results in vacancy in such office.

(8) As used in this section "mayor" means the chief executive of the city ***or consolidated local government*** whether the official designation of his office is mayor, city manager, or otherwise.

(9) Notwithstanding subsections (1) and (2) of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the air pollution control board shall consist of seven (7) members, four (4) of whom shall be appointed by the county judge/executive with the approval of the fiscal court and three (3) of whom shall be appointed by the mayor, with the approval of the legislative body, of the first-class city within such county.

The terms of such members shall be three (3) years, and until their successors are appointed and qualified. Upon the effective date of the compact, the mayor, and county judge/executive with the approval of the fiscal court, shall adjust the terms of the sitting members so that the term of one (1) of each of their appointments expires in one (1) year, the term of one (1) of each of their appointments expires in two (2) years and the term of one (1) of each of their appointments expires in three (3) years. The term of the then remaining member who was previously appointed by the mayor shall terminate immediately and the county judge/executive with approval of the fiscal court shall appoint a member for a one (1) year term. Upon the expiration of these staggered terms, successors shall be appointed for a term of three (3) years. ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing that city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, all members of the board shall be appointed by the mayor of the consolidated local government for a term of three (3) years. Incumbent members upon the establishment of the consolidated local government shall continue to serve as members of the board for the time remaining of their current term of appointment.***

Section 81. KRS 77.115 is amended to read as follows:

(1) The air pollution control board is hereby declared to be the governing body of an air pollution control district, and shall manage and control all the affairs and property of such district, and shall exercise all the powers of such district not otherwise delegated by this chapter. In a county where a city-county compact under KRS 79.310 to 79.330 is in effect ***or in a county where a consolidated local government has been established***, the air pollution control board shall assume all of the duties and responsibilities of the hearing board appointed under KRS 77.105, and the hearing board shall be abolished.

(2) Notwithstanding any provision of this chapter to the contrary, in a county where a city-county compact under KRS 79.310 to 79.330 is in effect ***or in a county where a consolidated local government has been established***, the air pollution control board shall have regulatory authority for the district, and the city***, consolidated local government,*** or county, as appropriate, shall exercise funding and administrative control of the district.

(3) If an air pollution control board finds the need for and requires the implementation of a vehicle exhaust testing program, the program shall prohibit emissions of, regulate, or control only mobile sources of air pollutants regulated under the state program established in accordance with KRS 224.20-710 to 224.20-765.

(4) In a county where the air pollution control board makes a finding of a need for and requires the implementation of a vehicle exhaust testing program, the board shall exempt from the program vehicles registered to military personnel on active duty whose duty station is outside of the county.

Section 82. KRS 77.127 is amended to read as follows:

(1) In a county containing a ***consolidated local government or a*** city of the first or second class, there is established within the air pollution control district a special trust fund to be known as the "air quality trust fund" to be used for conducting and funding air quality research and development projects, special nonrecurring air quality projects, and air quality education programs approved by the air pollution control board to assist in implementing the policies and purposes of this chapter.

(2) All money collected for the fund shall be deposited by the district into an interest-bearing capital project account maintained by the fiscal court ***or consolidated local government*** of the county in which the district is located. Money shall be distributed from the account by the finance director of the county ***or consolidated local government*** based upon written authorization from the air pollution control board. Money unexpended at the close of a fiscal year shall not lapse but shall be carried forward for future use.

(3) The fund shall not be used to support or finance the routine day-to-day activities and responsibilities of the district.

(4) The air pollution control board shall, by regulation, set policies and establish procedures for the receipt and disbursement of any money collected under this section and for the full disclosure of the source and use of the money.

(5) The air pollution control board shall control and manage the fund. It shall publish in writing at its June meeting each year an accounting of the income and disbursements of the fund.

(6) Four (4) members of the air pollution control board shall constitute a quorum for conducting business relating to the air quality trust fund. When votes are taken on matters relating to the fund, each member shall have one (1) vote, and the affirmative vote of at least a majority of the votes cast shall be necessary for the adoption of any motion, measure, or resolution.

(7) Members of the air pollution control board shall not solicit, but may accept, money by grant, gift, donation, bequest, civil or criminal penalty, or other conveyance to be credited to the air quality trust fund, but they may not accept penalties collected under KRS 77.990 for the air quality trust fund.

Section 83. KRS 77.135 is amended to read as follows:

(1) It shall be the duty of the secretary-treasurer of an air pollution control board of a ***consolidated local government and a*** county containing a city of the first or second class, during or before the month of May of each year to prepare and certify to the ***consolidated local government or*** fiscal court of the county and to the legislative body of the city, for their joint consideration, a preliminary budget showing the total funds which, in the judgment of the air pollution control board, will be needed for the various departments of the district, together with a statement showing the estimated balances, if any, which will be available on July 1 for expenditure during the next fiscal year following the certification of said statement,

and also indicating, as nearly as may be possible, what additional funds or assets (other than appropriations) will be or will become available for expenditure during ***that***[~~said~~] year. The board shall also furnish to ***the consolidated local government or the***[~~said~~] fiscal court and ***the city***[~~said~~] legislative body any other information or data available to it which ***the consolidated local government, the***[~~said~~] fiscal court***,*** or ***the city***[~~said~~] legislative body may request.

(2) Prior to the first day of each fiscal year, every air pollution control board shall prepare, for its own use and guidance, a financial budget setting forth the total amounts of funds available from all sources for expenditures during the said fiscal year, and also setting forth in detail the estimated expenditures of the board and the district during said fiscal year.

(3) A contingent fund for unanticipated expenditures may be established in order to provide for such contingent and unanticipated needs as may arise during the district's said fiscal year.

Section 84. KRS 77.140 is amended to read as follows:

The air pollution control board of a ***consolidated local government or a*** county containing a city of the first or second class shall install and maintain a modern and efficient system of accounting and keep financial records. The board, however, may select and use the finance department of ***the consolidated local government or***[~~such~~] city to do its financial accounting and make its disbursements in ***a***[~~such~~] manner as may be agreed upon by and between the board and the director of finance of ***the consolidated local government or***[~~said~~] city, which work shall be done by ***the***[~~said~~] finance department without compensation from the board. The Auditor of Public Accounts of the Commonwealth of Kentucky, the comptroller and inspector of ***the consolidated local government or the***[~~such~~] city, and the county auditor of such county, respectively, shall have access to the books and records of the board, and upon the direction of the legislative body of ***the consolidated local government or the***[~~such~~] city the[~~ said~~] comptroller and inspector, or upon the direction of the fiscal court of ***the***[~~such~~] county, the county auditor, shall make an audit of the board's accounts and report back thereon.

Section 85. KRS 77.275 is amended to read as follows:

If any local ordinance has provided regulations similar to those in KRS 77.150 to 77.175 or to any order, regulation, or rule prescribed by the air pollution control board, and has provided for the granting of variances, and pursuant to ***the***[~~such~~] local ordinance a variance has been granted prior to the adoption of a resolution by the fiscal court and the passage of an ordinance by the legislative body of a city of the first or second class, pursuant to KRS 77.010 to 77.060, ***or the passage of an ordinance by the consolidated local government, the***[~~such~~] variance shall be continued as a variance of the hearing board for the time specified therein or one (1) year, whichever is shorter, or until and unless prior to the expiration of such time the hearing board modifies or revokes such variance as provided in KRS 77.245 to 77.275.

Section 86. KRS 80.450 is amended to read as follows:

(1) The members shall constitute the housing authority. A majority of the members shall constitute a quorum for the purpose of conducting business and exercising powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of the members present, unless in any case the bylaws of the authority require a larger number. An authority shall select from among its members a chairman and a vice chairman, and it may employ a secretary (who shall be executive director), technical experts and such other officers, agents and other employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. For such legal services as it may require, an authority may call upon the chief law officer of the city or a county for which it is created, or may employ its own counsel and legal staff. An authority may delegate to one (1) or more of its agents or employees such powers or duties as it deems proper.

(2) Notwithstanding subsection (1) of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the secretary, who shall be the executive director, shall be appointed by and serve at the pleasure of the county judge/executive with the approval of the fiscal court pursuant to KRS 67.040. ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing such city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the secretary, who shall be the executive director, shall be appointed by and shall serve at the pleasure of the mayor.***

Section 87. KRS 80.480 is amended to read as follows:

(1) For inefficiency or neglect of duty or misconduct in office, a member may be removed by the authority appointing him, but a member shall be removed only after he ***or she*** has been given a copy of the charges against him ***or her*** at least ten (10) days prior to the hearing[~~ thereon~~] and has had an opportunity to be heard in person or by counsel. In the event of the removal of any member, a record of the proceedings, together with the charges and findings[~~ thereon~~], shall be filed as required for the certificate of appointment of ***the***[~~such~~] member.

(2) Notwithstanding subsection (1) of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the terms of the members of the authority shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, the county judge/executive with the approval of the fiscal court shall adjust the terms of the sitting members so that two (2) shall expire in one (1) year, two (2) shall expire in two (2) years and one (1) shall expire in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years. ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing such city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, all members of the authority shall be appointed by the mayor of the consolidated local government for a term of three (3) years. Incumbent members upon the establishment of the consolidated local***

government shall continue to serve as members of the authority for the time remaining of their current term of appointment.

Section 88. KRS 81.028 is amended to read as follows:

(1) Any city located in a county containing a ***consolidated local government or a*** city of the first class which is reclassified as a city of the second class after March 16, 2000, shall be exempt from the provisions of KRS 90.300 to 90.400, KRS 95.430 to 95.500, and KRS 95.851 to 95.991 relating to the organization and structure of civil service systems, police departments, fire departments, and pension systems in cities of the second class.

(2) In lieu of the requirements of these statutes, any city reclassified as a city of the second class shall ensure that police and fire protection services are provided for the citizens of the city in the same manner and at least at the same level of service as was being provided prior to the reclassification.

(3) Nothing in this section shall prevent a city from restructuring or creating a new civil service system, police department, or fire department after a reclassification to a city of the second class. Any city that restructures or creates a new civil service system, police department, or fire department may adopt any of the provisions of KRS 90.300 to 90.400, KRS 95.430 to 95.500, and KRS 95.851 to 95.991 relating to the organization and structure of civil service systems, police departments, fire departments, and pension systems in cities of the second class.

(4) If fire protection service is being provided by a fire protection district in any city that is reclassified as a city of the second class, the reclassification shall in no way affect the operations of the fire protection district and the services it provides. If at any time after a city is reclassified as a city of the second class, the fire protection district ceases to exist or fails to adequately provide for the fire protection needs of the city, the city shall have the right to create its own fire department or secure some other means for the provision of adequate fire protection services.

Section 89. KRS 81.380 is amended to read as follows:

(1) Any city, located in a county containing a city of the first class ***or a consolidated local government***, which is located within an area which is adversely affected by a public project that ***was***[~~has been~~] initiated by a city of the first class, or by action of a joint agency of a city of the first class and ***its***[~~the~~] county, after June 30, 1998, or upon the expiration of the initial twelve (12) year term provided in KRS 79.310(2) of a cooperative compact which is in effect in the county pursuant to KRS 79.310 to 79.330, may by ordinance relocate the corporate boundaries of the city to an unincorporated area of the county. The ordinance shall set out by metes and bounds that unincorporated area of the county where the city will be relocated. The area designated for relocation shall not exceed the acreage within the then existing boundaries of the relocating city.

(2) All financial assets and legal obligations of the city shall not be altered or interrupted by a relocation.

(3) A city of the first class ***or a consolidated local government*** shall relinquish all priority rights or any rights pursuant to the terms of a cooperative compact for annexation to that unincorporated area which is designated for the relocation of a city as provided for in subsection (1) of this section. Any priority rights or any rights pursuant to the terms of a cooperative compact for annexation which are relinquished for the relocation of a city shall then be attached in the name of the city of the first class ***or the consolidated local government*** to that area which has been abandoned by the relocating city pursuant to subsection (5) of this section. The relocating city shall forward a copy of the ordinance adopted pursuant to subsection (1) of this section to the mayor of the ***consolidated local government or the mayor of the*** city of the first class and the county judge/executive of the county.

(4) The right of a city to relocate is in no way meant to amend any provision of the statutes which govern the formation and operation of a cooperative compact created pursuant to KRS 79.310 to 79.330.

(5) Upon the relocation of a city, the city clerk shall forward to the Secretary of State within one (1) year from the date of the relocation, a document listing the name of the city, the date of the relocation, the present classification of the city, and a certified copy of the ordinance adopted pursuant to subsection (1) of this section. If a city fails to comply with this subsection, it shall be barred from receiving state moneys until the city complies.

(6) Until ninety percent (90%) of the residential properties located within the relocating city's boundaries are acquired for the public project, the boundaries of the city shall include both the old city site and the area designated for the location of the new site of the city.

(7) After ninety percent (90%) of the residential properties have been acquired as set forth in subsection (6) of this section, the boundaries of the city shall no longer include the area where the city existed before relocation.

(8) A city that has been relocated according to the provisions of this section may change the name of the city by the adoption of an ordinance by the city legislative body. Any person objecting to renaming the relocated city under this section may present a petition objecting to the renaming of the city by submitting the petition to the county clerk of the county in which the city is located. The petition shall be in the following form: "The registered voters living within (provide the name of the existing relocated city) hereby object to the question of the renaming of the city." If the petition is signed and dated by at least twenty-five percent (25%) of the registered voters residing in the relocated city, an election shall be held on the question of renaming the city. The county clerk shall examine the petition and verify the validity of the signatures. If a petition containing at least twenty-five percent (25%) of the registered voters residing in the relocated city is submitted to the county clerk, and certified by the county clerk as sufficient, by the second Tuesday in August, the question of renaming

the relocated city shall be placed on the ballot for the next general election. The ballot shall contain at least two (2) but no more than four (4) names as potential new names for the relocated city.

(9) Upon the act of renaming a city, the city clerk shall forward to the Secretary of State, within one (1) year from the date of the renaming, a document listing the new name of the city, the date of the renaming, the present classification of the city, and a certified copy of the ordinance adopted in accordance with KRS 83A.060. If a city fails to comply with the provisions of this subsection, it shall be barred from receiving state moneys until the city complies.

Section 90. KRS 81.050 is amended to read as follows:

(1) ***Except as provided in KRS 67C.111(2),*** proceedings to incorporate a city shall be commenced by a petition being filed with the circuit clerk of the county in which the area to be incorporated is located. The petition shall contain:

- (a) The signatures and addresses of:
  - 1. A number of registered voters equal to two-thirds (2/3) of the voters of the proposed territory, or
  - 2. A number of real property owners, the sum total of whose assessed value of real property is equal to at least two-thirds (2/3) of the assessed value of the real property in the proposed territory;
- (b) A statement of the boundaries proposed and the number of residents;
- (c) An accurate map of the proposed territory;
- (d) A detailed statement of the reasons for incorporation including the services sought from the proposed city;
- (e) A description of the existing facilities and services within the proposed territory; and
- (f) A statement of the form of government under which the city will operate if incorporated.

(2) The petition shall be docketed for hearing not less than twenty (20) days from the date of filing the petition. Notice of the filing of the petition and of its object shall be given by publication pursuant to KRS Chapter 424.

Section 91. KRS 81A.410 is amended to read as follows:

(1) ***Except as provided in KRS 67C.111(3),*** a city legislative body may extend the city's boundaries to include any area:

- (a) Which is adjacent or contiguous to the city's boundaries at the time the annexation proceeding is begun; and
- (b) Which by reason of population density, commercial, industrial, institutional or governmental use of land, or subdivision of land, is urban in character or suitable for development for urban purposes without unreasonable delay.

(2) No part of the area to be annexed shall be included within the boundary of another incorporated city.

(3) If a city is considering the annexation of two (2) or more areas which are all adjacent to the city boundary but are not adjacent to one another, it may undertake simultaneous proceedings under the authority of KRS 81A.420 for the annexation of such areas.

Section 92. KRS 82.025 is amended to read as follows:

(1) There shall be created a Kentucky Urban Affairs Council that shall consist of the mayors of all ***consolidated local governments,*** cities of the first and second classes, and urban-county governments, and the designated chief executives of charter county governments that prior to the merger of city and county governments contained a city of the second class. The ***council members annually shall select from among themselves a chairman***[~~mayor of Louisville shall serve as the first chairman and subsequent chairmen shall be elected annually by the council members~~]. The council shall study all matters pertaining to urban problems, including but not limited to human resources, environmental conditions, property values, law and order, and race relations. The council shall meet at least four (4) times per year to formulate a plan to improve urban conditions for presentation to the Governor annually and the General Assembly.

(2) The council shall be attached to the Department for Local Government for administrative purposes. The department shall be the administrative agent for the council providing staff and other services, as needed, by the council. The department shall provide adequate funding for staff services and the reasonable and necessary expenses of the council and its members for the effective performance of the council's work.

Section 93. KRS 82.085 is amended to read as follows:

(1) The legislative body of each ***consolidated local government, and of any*** city of the first, second, third, fourth, fifth, and sixth class, may provide by ordinance, for reasonable differences in the rate of ad valorem taxation within different areas of the same taxing district on that class of property which includes the surface of the land. Those differences shall relate directly to differences between nonrevenue-producing governmental services and benefits giving the land urban character which are available in one or several areas of a taxing district in contrast to other areas of the same taxing district in which those services and benefits are not available.

(2) These nonrevenue-producing governmental services and benefits shall include, but not be limited to, police protection, fire protection, streets, street lighting, sidewalks, water service, and sewer facilities.

(3) This section shall be effective notwithstanding any other statute relating to the uniformity of ad valorem tax assessment.

Section 94. KRS 82.095 is amended to read as follows:

(1) Any city of the fourth class located in a county containing a city of the first class ***or consolidated local government***, or any city of the third class, located in a county containing a city of the first class ***or consolidated local government***, which provides police, fire or garbage collection services for the residents of the city may levy a supplemental tax which shall be in addition to ad valorem property taxes.

(2) Such supplemental tax shall be in an amount not to exceed the reasonable cost of police, fire and garbage collection services actually provided by the city. The rate of such tax shall be established by an ordinance which shall have readings at no less than two (2) different meetings of the city legislative body before passage.

(3) The rate of such supplemental tax may be apportioned in a reasonable manner, other than an ad valorem approach, so that the recipient of police, fire or garbage collection services pays an amount based on the cost of services actually received.

(4) Any ordinance levying a supplemental tax pursuant to subsection (2) of this section may be recalled as provided in subsections (2) and (3) of KRS 160.485, provided that the petition for recall shall be effective upon the signature of a number of registered and qualified voters as described therein equal to five percent (5%) instead of the percentage provided therein.

Section 95. KRS 82.400 is amended to read as follows:

(1) If any person desires to offer for dedication by recorded plat any public way or easement within the ***jurisdictional***[~~city~~] limits ***of the city or a consolidated local government***, he ***or she*** shall file with the[~~city~~] legislative body ***of the city or a consolidated local government,*** a map or plat of the territory bounded, intersected, or immediately adjacent to the proposed public way or easement, showing the proposed name, nature, and dimensions of the public way or easement offered for dedication. If the[~~city~~] legislative body ***of the city or a consolidated local government*** decides the proposed dedication would be beneficial to the public interest and suitable for the immediate or future acceptance of the city ***or consolidated local government***, it shall approve the map or plat, and the mayor shall subscribe a certificate of approval on the map and acknowledge the execution thereof before any public officer authorized to take acknowledgments of deeds. The map or plat may then be recorded in the office of the county clerk.

(2) Except as provided for by ordinance in a ***consolidated local government, in a*** city of the first class or in a county containing a city of the first class, subdivision regulations which have been adopted as provided in KRS Chapter 100, and where streets or public ways as dedicated on the final subdivision plat have been constructed, inspected, and approved in accordance with the subdivision regulations, then the procedure for filing the map or plat with the[~~city~~] legislative body ***of the consolidated local government, city, or county, as the case may be,*** as required in subsection (1) of this section shall be waived, and the dedicated street or public way shall automatically be deemed beneficial to the public interest and shall be, by operation of law, automatically accepted for maintenance by the ***consolidated local government,*** city***, or county***, ***respectively,*** forty-five (45) days after inspection and final approval, and shall be a public way for all purposes, KRS Chapter 83A, regarding a city's***, county's, or consolidated local government's*** adoption of ordinances notwithstanding.

(3) When any property has been opened to the unrestricted use of the general public for five (5) consecutive years, it shall be conclusively presumed to have been dedicated to the city ***or consolidated local government*** as a public way or easement, subject to acceptance by the city ***or consolidated local government***. The city ***or consolidated local government*** may, at any time after the expiration of five (5) years from the time the property is opened to the public, pass an ordinance declaring it so dedicated, and accepting the dedication, whereupon it shall be a public way or easement of the city ***or consolidated local government*** for all purposes. The lack of an actual dedication to the city ***or consolidated local government***, or of a record title on the part of the city ***or consolidated local government***, shall be no defense against the collection of any tax that may be levied against property abutting thereon for the payment of the cost of any improvement constructed thereon by order of the city ***or consolidated local government***. Nothing herein shall be construed to require the expiration of five (5) years to raise a presumption of dedication in any case where, under any rule of law in force in this state, a dedication would be presumed in less than five (5) years. Provided, however, that property of a railroad company shall not be presumed to be dedicated as a public way or easement under this section or any other rule of law in force in this state unless the company consents to said dedication in writing.

(4) Any person who shall lodge for record in the county clerk's office, and any county clerk or deputy who shall receive for record or permit to be lodged for record, any plat, map, deed, or other instrument contrary to the provisions of this section, shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for each offense.

Section 96. KRS 82.650 is amended to read as follows:

As used in KRS 82.660 and 82.670, unless the context otherwise requires:

(1) "Major structural change" means structural alterations and structural repairs made within any twelve (12) month period costing in excess of fifty percent (50%) of the physical value of the structure, as determined by comparison of the extent/value of the alterations involved and the replacement value of the structure at the time the plans for the alteration are approved, using the Building Officials Conference of America (BOCA) chart for construction cost; and

(2) "Ordinary repairs" means nonstructural reconstruction or renewal of any part of an existing building for the purpose of its maintenance or decoration, and shall include, but not be limited to, the replacement or installation of nonstructural components of the building, such as roofing, siding, windows, storm windows, insulation, drywall or lath and plaster, or any other replacement that does not alter the structural integrity, alter the occupancy or use of the building, or affect by

rearrangement, exitways and means of egress.

(3) "City" means a city of any class or a consolidated local government but does not mean an urban-county government.

Section 97. KRS 82.700 is amended to read as follows:

As used in KRS 82.700 to 82.725:

(1) "Local government" means ***a consolidated local government, or*** a city of the first or second class;

(2) "Hearing board" means a body established by ordinance and empowered to conduct hearings pursuant to KRS 82.710 and composed of one (1) or more persons appointed by the mayor of the local government. "Hearing board" also means any hearing officers appointed by the board. Any action of a hearing officer shall be deemed to be the action of the board; and

(3) "Nuisance code" means an ordinance or ordinances enacted by a local government pursuant to KRS 381.770 and KRS 82.705.

Section 98. KRS 91.375 is amended to read as follows:

All omitted property that should have been assessed for ad valorem taxes by cities of the first class ***or consolidated local governments*** is subject to a penalty of ten percent (10%) of the amount of the taxes, and interest at one percent (1%) per month from the date when the taxes would have been delinquent had the property been listed as required by law.

Section 99. KRS 91.560 is amended to read as follows:

(1) The fee simple of all lands, in a city of the first class ***or in a consolidated local government***, and the full term and renewal of every leasehold carrying with it the value of the improvements thereon, shall be subject, from and after the assessment date each year, to a lien for the city taxes to be assessed thereon for the succeeding year. The lien shall be superior to homestead right and to all encumbrances, whether made before or after that date, except state taxes, and shall take precedence of dower, curtesy, remainders, reversions and other future estates.

(2) From the beginning of any action to collect taxes against real property, a lien for each tax bill assessed against the same owner or set of joint owners shall also arise upon every tract of land or improvement still owned by him or them, with a view to the sale of less than all the tracts for the entire tax bill, subject to such marshaling of burdens as against third parties as the rules of equity require. The court may allow a purchaser or encumbrancer to release any tract from the tax lien thereon, by paying its share of the tax, interest and costs.

(3) The tax lien on real property provided for by this section shall attach though, through error in the proceedings, the tax bill is unenforceable, in which case the lien reaching back to the date named shall support the claim of the city ***or consolidated local government*** for any taxes imposed afterward for the year in question under any curative act of the General Assembly.

(4) The city ***or a consolidated local government*** shall have a lien on personal property as provided in the case of real property for its taxes.

Section 100. KRS 91.610 is amended to read as follows:

The city ***or a consolidated local government*** shall deduct, from the amount of its obligation to any person, the amount of the taxes, interest and penalties that such person owes or is liable for to the city ***or consolidated local government***, and shall surrender to that person the canceled tax bills therefor, which shall be a discharge of the obligation of the city ***or consolidated local government*** to that person to the amount so deducted.

Section 101. KRS 91.620 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, the shares of stock of every incorporated bank, trust company, and guaranty or security company located in a city of the first class ***or consolidated local government*** shall be assessed for[~~city~~] taxes by the city ***or consolidated local government*** assessor, to the extent and in the proportion its business is done in the city ***or consolidated local government***.

(2) No assessment for city ***or consolidated local government*** taxes shall be made upon the shares of stock of any incorporated bank, trust company, or guaranty or security company that pays an ad valorem tax on its real estate and a license tax in lieu of an ad valorem tax on its personal estate.

Section 102. KRS 91A.350 is amended to read as follows:

(1) The local governing bodies of counties containing cities of the first class and the local governing bodies of the cities of the first class located therein may, by joint or separate action, establish tourist and convention commissions for the purpose of promoting convention and tourist activity. ***The local governing body of a consolidated local government may establish or maintain tourist and convention commissions for the purpose of promoting convention and tourist activity.***

(2) ***Except in a county containing a consolidated local government,*** the local governing bodies of counties containing cities of the second through sixth classes and the local governing bodies of the cities of the second through sixth classes located therein may, by joint or separate action, establish tourist and convention commissions for the purpose of promoting and developing convention and tourist activities and facilities.

(3) The local governing bodies of two (2) or more counties may jointly establish tourist and convention commissions for the purpose of promoting convention and tourist activities and facilities.

(4) The local governing bodies of two (2) or more counties, which may include a consolidated local government, may

jointly establish tourist and convention commissions for the purpose of promoting convention and tourist activities and facilities.

(5)[~~(4)~~] Tourist and convention commissions may continue to fund recreational activities or projects not related to tourism or conventions that were funded by the commission prior to July 13, 1990, at a level no greater than that provided by the commission in the 1990 fiscal year.

(6)[~~(5)~~] For the purpose of promoting recreational, convention, and tourist activity in cities and counties served by joint playground and recreation boards established under KRS 97.035; to provide the boards with the same authority to issue revenue bonds granted to cities by KRS 58.010 to 58.150 and KRS 103.200 to 103.285; and to authorize the boards to build and issue bonds for facilities located on leasehold and permithold land.

Section 103. KRS 91A.370 is amended to read as follows:

(1) ***Except in a county containing a consolidated local government,*** the commission established pursuant to subsection (1) of KRS 91A.350 shall be composed of nine (9) members to be appointed by the mayor of the largest city in the county, the county judge/executive and the Governor of the Commonwealth.

(2) ***Except in a county containing a consolidated local government,*** the mayor of the largest city in the county shall appoint three (3) commissioners in the following manner:

(a) One (1) commissioner from a list submitted by the local city hotel and motel association.

(b) One (1) commissioner from a list submitted by the chamber of commerce of the largest city in the county.

(c) One (1) commissioner from a list submitted by the local restaurant association or associations.

(3) ***Except in a county containing a consolidated local government,*** the county judge/executive shall, with the approval of the fiscal court, appoint three (3) commissioners in the following manner:

(a) One (1) commissioner from a list submitted by the local county hotel and motel association, provided that if only one (1) local hotel and motel association exists which covers both the city and county, then the local hotel and motel association shall submit a list to the county judge/executive.

(b) One (1) commissioner from a list submitted by the board of directors of ***the largest incorporated thoroughbred horse racing concern in the county***[~~Churchill Downs, Inc.~~], which list shall contain only directors, officers or employees of ***that corporation***[~~Churchill Downs, Inc~~].

(c) One (1) commissioner who is a resident of the county and who has an active interest in the convention and tourist industry.

(4) ***Except in a county containing a consolidated local government,*** the Governor shall appoint three (3) commissioners in the following manner:

(a) One (1) commissioner from a list submitted by the State Fair Board.

(b) One (1) commissioner from a list submitted by the ***local countywide air board***[~~Louisville and Jefferson County Air Board~~].

(c) One (1) commissioner shall be appointed***, in those counties not containing a consolidated local government,*** who is a resident of the county. ***In those counties containing a consolidated local government, one (1) commissioner shall be appointed who is a resident of the area comprising the consolidated local government.***

(5) Vacancies shall be filled in the manner that original appointments are made.

(6) When a list as provided in parts (2) and (3) of this section contains less than three (3) names or when a selection from such list is not made, the appointing authority shall request in writing the submission of a new list of names.

(7) ***Except in a county containing a consolidated local government,*** the commissioners shall be appointed for a term of three (3) years, provided that in making the initial appointments, the mayor, county judge/executive and Governor of the Commonwealth shall each appoint one (1) commissioner for a term of one (1) year, one (1) commissioner for a term of two (2) years, and one (1) commissioner for a term of three (3) years.

(8) ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing such city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the commission shall have nine (9) members. Six (6) members of the commission shall be appointed by the mayor of the consolidated local government for a term of three (3) years. The Governor of the Commonwealth shall appoint three (3) members of the commission for a term of three (3) years. Incumbent members upon the establishment of the consolidated local government shall continue to serve as members of the board for the time remaining of their current term of appointment.***

(9) The commission shall elect from its membership a chairman and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purposes of KRS 91A.350 to 91A.390. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services and other services and materials relating to the promotion of tourist and convention business; provided, contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials such as advertising firms, chambers of commerce, publishers and printers.

(10)[~~(9)~~] The books of the commission shall be audited by an independent auditor who shall make a report to the commission, to the organizations submitting names from which commission members are selected, and to the mayor ***of a city or a consolidated local government***, the county judge/executive ***in counties not containing a consolidated local government,*** and the Governor of the Commonwealth.

(11)[~~(10)~~] Commission members appointed by the Governor shall serve at the pleasure of the Governor. Commission members appointed by the mayor ***of a city or a consolidated local government*** or the county judge/executive may be removed as provided by KRS 65.007.

Section 104. KRS 91A.390 is amended to read as follows:

(1) The commission shall annually submit to the local governing body or bodies which established it a request for funds for the operation of the commission. The local governing body or bodies shall include the commission in the annual budget and shall provide funds for the operation of the commission by imposing a transient room tax, not to exceed three percent (3%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. In addition to the three percent (3%), the local governing body may impose a special transient room tax not to exceed one percent (1%) for the sole purpose of meeting the operating expenses of a convention center. A transient room tax imposed by an urban-county government shall not exceed four percent (4%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. Transient room taxes shall not apply to the rental or leasing of an apartment supplied by an individual or business that regularly holds itself out as exclusively providing apartments. Apartment means a room or set of rooms, in an apartment building, fitted especially with a kitchen and usually leased as a dwelling for a minimum period of thirty (30) days or more. The local governing body or bodies that have established a commission by joint or separate action shall enact an ordinance for the enforcement of the tax measure enacted pursuant to this section and the collection of the proceeds of this tax measure on a monthly basis.

(2) All moneys collected pursuant to this section and KRS 91A.400 shall be maintained in an account separate and unique from all other funds and revenues collected, and shall be considered tax revenue for the purposes of KRS 68.100 and KRS 92.330.

(3) A portion of the money collected from the imposition of this tax, as determined by the, tax levying body, upon the advice and consent of the tourist and convention commission, may be used to finance the cost of acquisition, construction, operation, and maintenance of facilities useful in the attraction and promotion of tourist and convention business. The balance of the money collected from the imposition of this tax shall be used for the purposes set forth in KRS 91A.350. Proceeds of the tax shall not be used as a subsidy in any form to any hotel, motel, or restaurant. Money not expended by the commission during any fiscal year shall be used to make up a part of the commission's budget for its next fiscal year.

(4) An urban-county government may impose an additional tax, not to exceed one percent (1%) of the room rents included in this subsection. This additional tax shall be collected and administered in the same manner as the regular tax with the exception that this additional tax shall be used for the purpose of funding the purchase of development rights program provided for under KRS 67A.845.

(5) Local governing bodies which have formed multicounty tourist and convention commissions as provided by KRS 91A.350(3) may impose an additional tax, not to exceed one percent (1%) of the room rents. This additional tax, if approved by each governing body, shall be collected and administered in the same manner as the regular tax, with the exception that this additional tax shall be used for the purpose of funding regional efforts relating to the promotion of tourist and convention business and convention centers. In no event shall any revenues collected as provided for under KRS 91A.350(3) be utilized for the construction, renovation, maintenance, or additions to any convention center that is located outside the boundaries of the Commonwealth of Kentucky.

(6) The commission, with the approval of the tax levying body, may borrow money to pay its obligations that cannot be paid at maturity out of current revenue from the transient room tax, but shall not borrow a sum greater than can be repaid out of the revenue anticipated from the transient room tax during the year the money is borrowed. The commission may pledge its securities for the repayment of any sum borrowed.

(7) The fiscal court or legislative body of a ***consolidated local government or*** city establishing a commission pursuant to KRS 91A.350(1) or (2) and, in its own name, a commission established pursuant to of KRS 91A.350(1) is authorized and empowered to issue revenue bonds pursuant to KRS Chapter 58 for public projects. Bonds issued for the purposes of KRS 91A.350 to 91A.390, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county***, consolidated local government,*** or city. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58.

(8) A commission established pursuant to KRS 91A.350(3) is authorized and empowered to issue revenue bonds in its own name, payable solely from its income and revenue, pursuant to KRS Chapter 58 for revenue bonds for public projects. Bonds issued for the purposes of KRS 91A.350 to 91A.390, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county. All bonds sold pursuant to this section shall be subject to competitive bidding as provided by law, and shall not bear interest at rates exceeding those for bonds issued for public projects under KRS Chapter 58.

Section 105. KRS 91A.392 is amended to read as follows:

(1) In addition to the three percent (3%) transient room tax authorized by KRS 91A.390 and the one percent (1%) transient room tax authorized by KRS 153.440, ***a consolidated local government, or*** the fiscal court in a county containing a city of the first or second class, except those counties that are included in a multicounty tourist and convention commission under KRS 91A.350, may levy an additional transient room tax not to exceed two percent (2%) of the rent for every occupancy of a suite, room, or rooms charged by all persons, companies, corporations, or other similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or similar accommodations businesses.

(2) All money collected from the tax authorized by this section shall be applied toward the retirement of bonds issued pursuant to KRS 91A.390(7) to finance in part the expansion or construction or operation of a governmental or nonprofit convention center or fine arts center useful to the promotion of tourism located in the central business district of the ***consolidated local government or the*** city of the first or second class located in the county.

(3) After the retirement of the bonds provided for in this section, the additional transient room tax levied pursuant to this section shall be void, and the ***consolidated local government or*** fiscal court shall take action to repeal the ordinance which levied the tax.

Section 106. KRS 96.030 is amended to read as follows:

No exclusive privilege shall be acquired through the sale of a franchise under KRS 96.010 by a ***consolidated local government or a*** city of the first class. The sale of a franchise to one (1) person by ***a consolidated local government or*** a city of the first class shall not prevent a subsequent sale of a similar franchise to another person.

Section 107. KRS 96.040 is amended to read as follows:

(1) If a city of the first class ***or a consolidated local government*** desires to own or operate a utility being operated under a franchise, and the city ***or consolidated local government*** takes the necessary steps within two (2) years before the expiration of the franchise, and offers to purchase, at a fair valuation, the plant of the company which is then rendering the service, the city ***or consolidated local government*** shall be under no obligation to sell, renew or continue the franchise.

(2) The fair valuation of the plant shall be determined by three (3) persons; one (1) to be selected by the city ***or consolidated local government***, one (1) to be selected by the owners of the plant, and the third to be selected by these two (2). The plant shall be valued as a going concern, but no allowance shall be made for future growth.

Section 108. KRS 96.230 is amended to read as follows:

Whenever any city of the first class ***or consolidated local government*** owns, through its commissioners of the sinking fund ***or revenue commission, respectively***, all the shares of capital stock in any corporation engaged in supplying water to[~~ the city and~~] its inhabitants, the city ***or consolidated local government*** shall control, manage and operate the plant of the corporation, its franchise, and all its other property, in the manner provided in KRS 96.240 to 96.310. The provisions of KRS 96.230 to 96.310 shall not affect the status of the stock as part of the assets of the sinking fund ***or revenue commission, respectively***.

Section 109. KRS 96.240 is amended to read as follows:

The mayor ***of a consolidated local government which is formed upon the consolidation of a city of the first class with its county, and which receives upon the consolidation from the city of the first class the shares of capital stock in any corporation engaged in supplying water to the area comprising the consolidated local government,*** shall appoint, subject to the approval of the ***legislative council, six (6)***[~~city legislative body, four (4)~~] persons no more than ***three (3)***[~~two (2)~~] of whom shall be members of the same political party, who with the mayor as an ex officio member shall constitute a body corporate known as the "board of waterworks"[~~; and if the board of waterworks operates mains and lines and serves in excess of fifty thousand (50,000) customers outside the corporate limits of a city of the first class but in the county in which the city is located, the county judge/executive shall appoint two (2) persons, who shall be of different political parties, to serve on and be members of the board of waterworks~~]. Each appointee shall be at least thirty (30) years of age and shall be a resident of the ***county containing a consolidated local government***[~~city, if appointed by the mayor, or of the county, if appointed by the county judge/executive,~~] and be the owner in his ***or her*** own right of real estate situated in the[~~ city if appointed by the mayor, or in the~~] county[~~ if appointed by the county judge/executive~~]. At least one (1) such appointee shall be qualified, as specified in KRS 96.250, to serve as president of the board. No officer or employee of the ***consolidated local government***[~~city~~], whether holding a paid or unpaid office, shall be eligible for appointment to the board. Of the persons first appointed ***two (2)***[~~one (1)~~] shall be appointed[~~ for a term of one (1) year, one (1)~~] for a term of two (2) years, ***two (2)***[~~one (1)~~] for a term of three (3) years, and ***two (2)***[~~one (1)~~] for a term of four (4) years and such terms shall expire on the date of the annual meeting of the board of waterworks. Their successors shall be appointed in the same manner, but for terms of four (4) years each.[~~ At such time as the board of waterworks serves on a retail basis in excess of fifty thousand (50,000) customers outside the corporate limits of a city of the first class, the president of the board shall notify the county judge/executive who shall immediately appoint two (2) members as hereinabove provided, one (1) for a term of two (2) years and one (1) for a term of four (4) years; and their successors shall be appointed by the county judge/executive for terms of five (5) years each.~~] Appointees shall be eligible to succeed themselves. All vacancies shall be filled for the unexpired term by appointment in the same manner. Each member shall hold his office until his ***or her*** successor has been appointed and qualified. The oath of office of each member shall be filed with the board of ***the revenue commission of the consolidated local government***[~~sinking fund commissioners~~].

Section 110. KRS 96.260 is amended to read as follows:

The board of waterworks shall be vested with all the authority and privileges, exercise all the franchises, and have possession, control and management of all the property, of the corporation of which the ***consolidated local government or*** city owns all the stock. It may make contracts and sue and be sued, but only in the name of the corporation.

Section 111. KRS 96.550 is amended to read as follows:

As used in KRS 96.550 to 96.900, unless the context requires otherwise:

(1) "Acquire" shall mean and include construct, acquire by purchase, by lease, devise, gift, or the exercise of the right of eminent domain in the manner now or hereafter provided by law for the exercise thereof and acquisition by any other mode.

(2) "Board" shall mean a board of public utilities established pursuant to KRS 96.740.

(3) "Bonds" shall mean either general obligation bonds or revenue bonds.

(4) "Constitution" shall mean the Constitution of Kentucky.

(5) "Electric plant" shall mean and include any plant, works, systems, facilities and properties (including poles, wires, stations, transformers, and any and all equipment and machinery), together with all parts thereof and appurtenances thereto, used or useful in the generation, production, transmission or distribution of energy.

(6) "Energy" shall mean and include any and all electric energy no matter where or how generated, produced, transmitted or conveyed.

(7) "Electric service" shall mean the furnishing of electric power and energy for any purpose for which electric power and energy can be used.

(8) "General obligation bonds" shall mean direct or general obligations of any municipality, issued within the limits and subject to the provisions of Sections 157 and 158 of the Constitution.

(9) "Governing body" shall mean the board, council, commission, fiscal court, or other general governing body of the municipality.

(10) "Governmental agency" includes the United States, the President, the federal works agency, the federal lending agency, Tennessee Valley Authority, or any other similar agency, instrumentality or corporation of the United States, or of Kentucky or any political subdivision thereof, created by or pursuant to any Act of Congress or by state legislation.

(11) "Improve" shall mean and include construct, reconstruct, improve, extend, enlarge, alter, better and repair.

(12) "Improvement" shall mean any improvement, extension, betterment or addition to any electric plant.

(13) "Law" shall mean any statute of this state.

(14) "Mayor" shall mean the mayor of any class city unless there be a city manager, then it shall mean city manager, or the county judge/executive of any county. ***"Mayor" shall also mean the mayor of a consolidated local government.***

(15) "Municipality" shall mean any county, city, ***consolidated local government,***[~~town or village~~] or municipal corporation of any and every class in the Commonwealth of Kentucky.

(16) "Revenue bonds" shall mean obligations payable solely from the revenues derived from the operation of an electric plant and such bonds shall not constitute an indebtedness of any municipality within the meaning of the provisions or limitations of the Constitution.

(17) "Net revenues" shall mean revenues remaining after payments of (a) all payments provided for herein to be made to the state, county, school or other taxing district; (b) the payments of salaries, and premiums on bonds of officers and employees of the board; and (c) all other ordinary and necessary operating expenses of the board in the operation of the electric plant including reserves for depreciation.

Section 112. KRS 96A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires, the following words or terms shall mean as follows:

(1) "City" means any incorporated city in the Commonwealth;

(2) "County" means any county in the Commonwealth wherein there is located an incorporated city and for the purpose of this chapter shall also mean a county which has adopted an urban-county government ***or consolidated local government***;

(3) "State" means the Commonwealth;

(4) "Transit authority" or "authority" means a transit authority created pursuant to this chapter;

(5) "Board" means the board of a transit authority;

(6) "Public body" means any city or county of the Commonwealth;

(7) "Governing body" means, as to a county, the fiscal court thereof; ***as to a consolidated local government , the legislative council thereof;*** and as to a city, the legislative body thereof, howsoever the same may be denominated according to law;

(8) "Proceedings" means, in the case of a county, a resolution of its fiscal court; and in the case of a city ***or consolidated local government***, an ordinance adopted and made effective according to law by its governing body;

(9) "Joint proceedings" relates only to the establishment of a transit authority by two (2) or more public bodies acting in concert or by agreement, and means the proceedings, taken collectively, by the governing bodies of the public bodies, participating in the creation and establishment of a transit authority;

(10) "Appointing authority" means, as to a county, the county judge/executive thereof; and as to any city ***or consolidated local government***, the elected chief ***executive*** officer~~[thereof]~~, whether designated as its mayor or~~[the chairman of its board of trustees or]~~ otherwise;

(11) "Area" or "transit area" means the geographical area which may be encompassed from time to time within the lawful boundaries of such cities and counties as may be involved in the creation and establishment of an authority; and of any cities or counties within any single unified metropolitan area which may subsequently become participants as provided in this chapter;

(12) "Mass transit," or "mass transportation," means the transportation of persons and their baggage within or without a transit area, but shall not include the for-hire operation of a taxicab, or industrial bus as defined by KRS Chapter 281;

(13) "Human service transportation delivery" means the same as defined in KRS 281.014;

(14)"Delivery area" means the same as defined in KRS 281.014; and

(15) "Broker" means the same as defined in KRS 281.014.

Section 113. KRS 96A.040 is amended to read as follows:

(1) The business, activities and affairs of a transit authority shall be managed, controlled and conducted by a board consisting of members appointed as follows:

(a) If the authority is established by one (1) city alone, or by a county alone, the members shall be eight (8) in number and shall be appointed by the appointing authority of such city or county;

(b) If the authority is established by joint proceedings of two (2) public bodies, the membership shall be eight (8) in number, four (4) of whom shall be appointed by the appointing authority of each of such public bodies;

(c) If an authority is created and established by joint proceedings of more than two (2) public bodies, the membership shall be eight (8) in number, plus one (1) additional member for each participating public body in excess of two (2), and the members thereof shall be appointed by the appointing authorities of the participating public bodies in such manner as may be set forth in the joint proceedings; and

(d) If an authority is created and established, and subsequently one (1) or more other public bodies are permitted to join therein, the membership of the board may be enlarged, with the concurrence and approval of the governing bodies of the public bodies theretofore participating, by not more than one (1) additional member for each additional public body so permitted to join the authority.

(2) No officer or employee of any public body represented in the creation, establishment, or enlargement of an authority shall be eligible for appointment to the board.

(3) After the effective date of the creation of an authority as provided in this chapter, the appointing authority or the appointing authorities, as the case may be, shall, in such manner as may be specified in the proceedings or joint proceedings, appoint at least two (2) members for terms of one (1) year, at least two (2) members for terms of two (2) years, at least two (2) members for terms of three (3) years, and the remaining number for terms of four (4) years; such terms to expire, in each instance, on June 30 and thereafter until a successor is appointed and accepts appointment. Upon the expiration of these initial staggered terms, successors shall be appointed by the respective appointing authorities, for terms of four (4) years, and until successors are appointed and accept their appointments. Members shall be eligible for reappointment.

(4) Any member of the board may be removed by his or her appointing authority for inefficiency, neglect of duty, malfeasance, conflict of interest, or want of mental or physical capacity to serve. Any appointing authority exercising the power to remove a member of the board shall submit to the board a written statement setting forth the reasons for removal. Notice shall be given to the member named in such statement; a hearing, if requested, shall be conducted within thirty (30) days before the members of the board who are not the subject of such removal proceedings; a record of the hearing shall be made by the secretary-treasurer of the board; and the member named in such removal notice may appeal any adverse decision, within ten (10) days after the rendering thereof, to the Circuit Court of any county which is served in whole or in part by the facilities of the transit authority, such appeal to be perfected by filing with the clerk of such court a copy of the removal proceedings certified by the secretary-treasurer of the board. The court, upon application of the member removed,

may in its discretion order that the original record of the proceedings be filed with the clerk as the basis for such appeal. There shall be a right of appeal to the Court of Appeals.

(5) Members of the board shall be allowed reasonable expenses necessarily incurred by them in the conduct of the affairs of the authority. Compensation may be paid to members of the board if so provided in the proceedings or joint proceedings, subject to such limitations as may be set forth therein.

(6) Notwithstanding subsection (3) of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the terms of the members on the board shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, the mayor, and county judge/executive with the approval of the fiscal court, shall adjust the terms of the sitting members so that the terms of two (2) of each of their appointments expire in one (1) year, the term of one (1) of each of their appointments expire in two (2) years and the term of one (1) of each of their appointments expire in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years. ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing such city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, all members of the board shall be appointed by the mayor of the consolidated local government for a term of three (3) years. Incumbent members upon the establishment of the consolidated local government shall continue to serve as members of the board for the time remaining of their current term of appointment.***

Section 114. KRS 96A.070 is amended to read as follows:

(1) The board shall, within sixty (60) days after the appointment of its entire initial membership, and thereafter in July of each year, elect from its members a chairman and a vice chairman. It may, in its discretion, employ an executive director and a secretary-treasurer, neither of whom shall be a member of the board; provided, however, if the creation and establishment of the authority is shown by the provisions of the proceedings or joint proceedings to have been undertaken only on a stand-by basis, the board may defer the employment of an executive director and may, on an interim basis, designate a secretary-treasurer from its own membership.

(2) The board may, in its discretion, employ necessary legal counsel and other agents and employees to carry out its work and functions, and may from time to time prescribe and alter such rules and regulations as it may deem necessary.

(3) The executive director, if and when employed in the discretion of the board, shall be experienced and knowledgeable in the field of transportation; and if and when employed, such executive director shall be the chief executive officer of the authority, having such powers and duties as the board may prescribe. Such executive director may recommend the establishment or alteration of rules and regulations, and of rates and charges for use of the services and facilities of the mass transportation system of the authority; but action in such respects, and in the issuance of revenue bonds or mortgage bonds of the authority, and in requesting the issuance of general obligation bonds by other public bodies for the benefit of the authority, and in authorizing leases of the properties of the authority for financing purposes, shall be taken by the board, or by the executive committee of the board if properly thereunto authorized.

(4) The secretary-treasurer shall keep the minutes of all meetings of the board, and shall also keep a set of books showing the receipts and expenditures of the board. He ***or she*** shall preserve on file duplicate vouchers for all expenditures and shall present to the board, upon request, complete reports of all financial transactions and the financial condition of the board. Such books and vouchers shall at all times be subject to examination by the governing body of any public body by which the authority was created or enlarged. He ***or she*** shall transmit at least once annually a detailed report of all acts and doings of the board to the public body or bodies by whom the board was created. He ***or she*** shall cause all moneys of the authority coming into his ***or her*** hands to be deposited in one (1) or more financial institutions, as designated from time to time by the board.

(5) The board shall require its secretary-treasurer, and its executive director, if and when such executive director shall be employed, each to execute bond in favor of the authority, in such respective penal sums as the board may fix, in favor of the authority, and conditioned upon faithful performance of the duties of such offices and full accounting to the authority. Each such bond shall be with corporate surety, provided by a corporate surety company qualified to transact business in Kentucky and approved, in each instance, by the board. The board may in like manner require similar bonds, with corporate surety, to be given by other officers, agents and employees in such manner and in such penal sums, as it may specify from time to time. Premiums payable to sureties upon such bonds shall be paid by the authority and may be chargeable as an operating expense of the authority.

(6) The board shall fix the salaries, wages or other compensation of the officers, agents and employees whom it may engage from time to time; in each case within such limitations, if any, as may be prescribed in the proceedings or joint proceedings set forth in the establishment of the authority, or as such proceedings may be amended; but such salaries, wages or other compensation shall constitute obligation of the authority only, and shall be payable from the authority's revenues and any other available resources, and shall not constitute obligations of any city or county participating in the creation and establishment, or subsequent enlargement, of the authority.

(7) The board may, by resolution duly adopted and spread at large upon its public records, establish an executive committee, composed of such members of the board as may be specified in such resolution, and may authorize such executive committee to exercise in intervals between board meetings any powers of the board except those powers which are

expressly required by this chapter or by other controlling provisions of law to be exercised by the board.

(8) The board may create such other committees of its members as it may deem necessary or proper; but the same shall be advisory in nature and shall report to the board or to the executive committee, and shall not be authorized to take any independent action except in such advisory capacity.

(9) Notwithstanding other provisions of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the executive director and a secretary-treasurer or any individual, corporation or partnership, either by contract or employment, who serves as executive director or secretary-treasurer in the management of the affairs of the board, shall be appointed by and serve at the joint pleasure of the mayor, and the county judge/executive with the approval of fiscal court pursuant to KRS 67.040. ***Upon the establishment of a consolidated local government in a county in which a city of the first class and a county containing the city have had in effect a cooperative compact under KRS 79.310 to 79.330, an executive director or secretary-treasurer shall be appointed by and shall serve at the pleasure of the mayor.***

Section 115. KRS 97.035 is amended to read as follows:

(1) If two (2) or more political subdivisions determine to jointly establish, maintain and conduct a park and recreation system or systems, which may include but shall not be limited to the establishment, maintenance***,*** and conduct of zoos and museums, the legislative bodies of such counties, cities or other districts involved may by ordinance, order***,*** or resolution approve a plan for the establishment of such joint project and for the creation of a joint board representative of the subdivisions involved, and possessed with all the powers and duties of KRS 97.010 to 97.050. This subsection authorizes the creation of a joint board by any two (2) or more cities or any city and county for purposes of establishment, maintenance***,*** and conduct of zoos and the creation of another joint board for purposes of establishment, maintenance***,*** and conduct of museums.

(2) ***Except in a county containing a consolidated local government,*** such board shall consist of not less than five (5) members. The plan shall provide for distribution of membership and all participating governmental units shall have representation thereon. The members of the board shall be appointed by the county judge/executive, mayor of the city or governing body of the district, as the case may be, for terms of four (4) years to serve at the pleasure of the appointing authority. Vacancies shall be filled for unexpired terms by appointment of the authority appointing the member whose office is vacant. The terms of office of such members shall be staggered as provided by order or resolution of the political subdivisions concerned. Members of the board shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

(3) The board shall be a body corporate for all purposes, and shall elect from its membership a chairman, secretary***,*** and treasurer. The treasurer shall execute a bond conditioned on the faithful performance of his ***or her*** duties sufficient in amount to cover funds coming into his ***or her*** hands. The premium on such bond shall be paid from board funds.

(4) Any park, playground***,*** or recreation system operated jointly by two (2) or more political subdivisions as provided in KRS 97.010 (2), on June 19, 1958, shall be governed by this section.

(5) Notwithstanding subsections (1), (2) and (3) of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, such city and county shall by joint action create a joint city/county department to maintain and conduct a park and recreational system or systems. In such event, the board shall be dissolved as a corporate entity and all assets and liabilities of the board shall be transferred to the joint department. An advisory board may be established by joint agreement of such city and county. ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing such city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the joint department shall become a department of the consolidated local government and all assets and liabilities of the joint department shall be transferred to the consolidated local government. An advisory board may be established or maintained by a consolidated local government. Members of the advisory board shall be appointed and shall serve at the pleasure of the mayor of the consolidated local government.***

Section 116. KRS 98.300 is amended to read as follows:

In each county containing a city of the first class***,*** the fiscal court of ***the***~~[said]~~ county may, by resolution, establish a department of welfare to be governed by the provisions of KRS 98.300 to 98.390. ***A consolidated local government may by resolution or ordinance establish or maintain a department of welfare to be governed by the provisions of KRS 98.300 to 98.390.*** Such department shall function from a date specified in such resolution ***or ordinance***. The department shall consist of a director of welfare and such assistants and other employees as are necessary for the efficient performance of the welfare services of the county.

Section 117. KRS 98.310 is amended to read as follows:

The director shall be appointed by the fiscal court ***except in those counties containing a consolidated local government, in which case the director shall be appointed by the mayor***. The director shall be trained and experienced in public welfare administration. Subject to rules and regulations approved by the fiscal court ***or the consolidated local government, respectively***, the director shall have full charge of the department, with power to employ and dismiss employees subject to the limitations of KRS 98.370. The director shall prepare for submission to and approval of the fiscal court ***or the consolidated local government, respectively,*** an annual budget, authorize expenditures in conformity with the budget and prepare an annual report of the activities and expenditures of the department for submission to the fiscal court ***or the consolidated local government, respectively***. Before entering upon the discharge of his ***or her*** duties, the director shall give a bond approved by the fiscal court ***or the consolidated local government, respectively***, and the fiscal court ***or the consolidated local government, respectively,*** may, in its discretion, require bonds for other employees within the department.

Section 118. KRS 98.350 is amended to read as follows:

The fiscal court***, except in a county containing a consolidated local government, in which case it shall be the mayor,*** shall appoint a bipartisan county welfare advisory board of not less than five (5) nor more than nine (9) residents of the county. The members shall be appointed in such a manner that the term of at least one (1) member shall expire annually. Any vacancy shall be filled for the unexpired term in the same manner as the original appointment. Members of the county welfare advisory board shall serve without compensation. The county welfare advisory board shall suggest rules and regulations to the county director of welfare with respect to the organization of the county department of welfare, and shall advise the director and the fiscal court ***or consolidated local government, respectively, as***[~~with respect~~] to budget estimates, policies and other problems of welfare activities.

Section 119. KRS 99.595 is amended to read as follows:

(1) "Administering agency" means the agency delegated responsibility by the legislative body to implement the provisions of KRS 99.595 to 99.605 and 132.452.

(2) "Commercial facility" means any structure the primary purpose and use of which is the operation of a commercial business enterprise and which is twenty-five (25) years old or older.

(3) "Existing residential building" means a residential building which has been in existence for at least twenty-five (25) years and use of which is to provide independent living facilities for one (1) or more persons.

(4) "Legislative body" means the board of aldermen in a city of the first class operating under KRS Chapter 83, the city council in a city operating pursuant to KRS 83A.130, the city commission in a city operating pursuant to KRS 83A.140, the board of commissioners in a city operating pursuant to KRS 83A.150, the fiscal court in a county, ***the legislative council in a consolidated local government operating pursuant to KRS Chapter 67C,*** and the legislative body in an urban-county government operating pursuant to KRS Chapter 67A.

(5) "Local government" means a county, municipal, ***consolidated local government,*** or urban-county government.

(6) "Rehabilitation" means the process of returning an existing structure to a state of utility through repair or alteration which makes possible an efficient contemporary use.

(7) "Repair" means the reconstruction or renewal of any part of an existing structure for the purpose of maintenance.

(8) "Restoration" means the process of accurately recovering the form and details of a structure and its setting as it appeared at a particular period of time by removal of later work or by the replacement of missing earlier work.

(9) "Stabilization" means the process of applying measures designed to reestablish a weather resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists.

(10) "Assessment or reassessment moratorium" means the act of deferring the value of the improvements from the taxable assessment of qualifying units of real property for a maximum period of five (5) years.

Section 120. KRS 99.615 is amended to read as follows:

The following words or terms shall have the following meanings wherever used in KRS 99.610 to 99.680 unless a different meaning is clearly indicated by the context:

(1) "Act" means KRS 99.610 to 99.680 which may be called the "Local Development Authority Act";

(2) "Technical advisory council" means that committee appointed under the terms of KRS 99.655;

(3) "Price advisory council" means that committee appointed under the terms of KRS 99.680;

(4) "Agency" means a development authority established by this statute in and for cities of the first and second class***, a consolidated local government,*** and each county governed under the statutes permitting the establishment of urban-county governments;

(5) "Bonds" means any bonds, notes, interim certificates, debentures or other obligations issued by an agency pursuant to the provisions and purposes of KRS 99.610 to 99.680;

(6) "Project area" means any area or specific property designated by an agency or any area or specific property actually acquired or formally proposed for acquisition by an agency, for historical or open space preservation purposes or for the development permitted by KRS 99.610 to 99.680;

(7) "City" means any city of the first or second class***, a consolidated local government,*** or ***a*** county governed under the urban-county government statute, in which an agency has been established;

(8) "Development" means the acquisition, planning, designing, clearance, renovation or rehabilitation of existing improvements, development and disposal, or any combination thereof, of a project area, including the preparation of such project area for the development of residential, commercial, industrial, public, recreational, open space or other uses, including the preservation of existing residential, commercial, industrial, public, recreational, open spaces or other uses

valued locally for their economic or historical importance as may be appropriate or necessary, in the opinion of the board of commissioners of an agency;

(9) "Subdevelopment" means the actual construction, renovation or rehabilitation of improvements to real property including the installation of or improvement to existing utilities, curbs, gutters, sidewalks, storm sewers and other necessary works and improvements, consistent with the established development plan for each specific project area in order to market, through private enterprise, said improvements to individuals, commercial business and industry;

(10) "Development plan" means the plan for the development as defined, of all or any part of a project area;

(11) "Mayor" means the mayor of a first or second class city***, of a consolidated local government,*** or of an urban-county government as established by law;

(12) "Governing board" means a board of aldermen or commissioners***, a legislative council in a consolidated local government,*** or a common or urban-county council of a city as herein defined, as the case may be;

(13) "Project" means any undertaking within a project area and any such undertaking which may be included in, and financed by, a single or separate financing agreement or bond issue;

(14) "Persons and families of lower income" means persons and families who lack the amount of income which is necessary (as determined by standards established by the agency) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding;

(15) "Residential housing project" means a specific work or improvement undertaken primarily to provide or to rehabilitate dwelling accommodations for persons and families of lower income, including the acquisition, construction and rehabilitation of land, buildings and improvements and such other facilities as may be incidental or appurtenant thereto.

Section 121. KRS 99.620 is amended to read as follows:

There is hereby authorized, created and established in cities of the first and second class***, consolidated local governments,*** and counties governed under the urban-county government statutes, upon adoption of a resolution so declaring by a majority of the governing board of said cities***, consolidated local governments,*** or counties, an agency to be known by the name of the city, ***the consolidated local government,*** or in the case of an urban-county government, the largest city in such county and the name of the county itself, separated by the word "and," and the words "Development Authority." Said agency shall exist for each such city***,*** ***consolidated local government,*** or county with the powers, duties, and functions hereinafter provided.

Section 122. KRS 99.660 is amended to read as follows:

A city***, consolidated local government,*** or urban-county shall have the power to aid an agency in any manner provided for aid by public bodies to urban renewal and community development agencies by KRS 99.410.

Section 123. KRS 99.700 is amended to read as follows:

(1) It is hereby found:

(a) That there exists in many cities and in counties containing a city of the first class ***or consolidated local government*** in this Commonwealth blighted and deteriorated properties in neighborhoods which cause the deterioration of those and contiguous neighborhoods and constitute a serious and growing menace which is injurious to the public health, safety, morals and general welfare of the residents of the Commonwealth, and are beyond remedy and control solely by regulatory process in the exercise of the police power;

(b) That the existence of blighted and deteriorated properties within neighborhoods, and the growth and spread of blight and deterioration or the threatened deterioration of other neighborhoods and properties:

1. Contribute substantially and increasingly to the spread of disease and crime, and to losses by fire and accident;
2. Necessitate expensive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, and punishment, for the treatment of juvenile delinquency, for the maintenance of adequate police, fire and accident protection, and for other public services and facilities;
3. Constitute an economic and social liability;
4. Substantially impair or arrest the sound growth of the community;
5. Retard the provision of decent, safe, and sanitary housing accommodations;
6. Depreciate assessable values;
7. Cause an abnormal exodus of families from these neighborhoods; and
8. Are detrimental to the health, the well-being and the dignity of many residents of these neighborhoods;

(c) That this menace cannot be effectively dealt with by private enterprise without the aids provided herein;

(d) That the benefits which would result from eliminating the blighted properties that cause the blight and deterioration of neighborhoods will accrue to the inhabitants of the neighborhoods in which these conditions exist and to the inhabitants of this Commonwealth generally.

(2) It is hereby declared:

(a) That it is the policy of this Commonwealth to protect and promote the health, safety, and welfare of the people of the Commonwealth by eliminating the blight and deterioration of neighborhoods through the elimination of blighted and deteriorated properties within these neighborhoods;

(b) That the elimination of such blight and deterioration and the preparation of the properties for sale or lease, for development or redevelopment, constitute a public use and purpose for which public money may be expended and private property acquired and are governmental functions in the interest of the health, safety, and welfare of the people of the Commonwealth;

(c) That the necessity in the public interest for the provisions enacted herein is hereby declared to be a legislative determination.

Section 124. KRS 99.705 is amended to read as follows:

Unless the context otherwise requires:

(1) "Blighted" or "deteriorated" property means any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly built-up neighborhood:

(a) Which because of physical condition or use is regarded as a public nuisance at common law or has been declared a public nuisance in accordance with the city, or in counties containing a city of the first class ***or consolidated local government***, with the~~[county]~~ housing, building, plumbing, fire or related codes;

(b) Which because of physical condition, use or occupancy is considered an attractive nuisance to children, including but not limited to abandoned wells, shafts, basements, excavations, and unsafe fences or structures;

(c) Which because it is dilapidated, unsanitary, unsafe, vermin-infested or lacking in the facilities and equipment required by the housing code of the city or county containing a city of the first class ***or consolidated local government***, has been designated by the department responsible for enforcement of the code as unfit for human habitation;

(d) Which is a fire hazard, or is otherwise dangerous to the safety of persons or property;

(e) From which the utilities, plumbing, heating, sewerage or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use;

(f) Which by reason of neglect or lack of maintenance has become a place for accumulation of trash and debris, or a haven for rodents or other vermin;

(g) Which has been tax delinquent for a period of at least three (3) years; or

(h) Which has not been rehabilitated within the time constraints placed upon the owner by the appropriate code enforcement agency.

(2) "Redevelopment" means the planning or replanning, design or redesign, acquisition, clearance, development and disposal or any combination of these, of a property in the preparation of such property for residential and related uses, as may be appropriate or necessary.

(3) "Residential and related use" shall mean residential property for sale or rental and related uses; including, but not limited to, park and recreation areas, neighborhood community service, and neighborhood parking lots.

(4) "Vacant property review commission" means a commission established by ordinance to review vacant properties to make a written determination of blight and deterioration.

Section 125. KRS 99.710 is amended to read as follows:

(1) If the legislative body of ***a consolidated local government,*** a city***,*** or ***a*** county containing a city of the first class finds and declares that there exists in the ***consolidated local government,*** city***,*** or county containing a city of the first class blighted or deteriorated properties and that there is need in the city or county ~~[containing a city of the first class]~~ for the exercise of powers, functions and duties conferred by KRS 99.705 to 99.730, the legislative body may adopt the provisions of KRS 99.705 to 99.730 by ordinance.

(2) The ordinance adopting the provisions of KRS 99.705 to 99.730 shall also establish a vacant property review commission which shall certify properties as blighted or deteriorated to the legislative body. The ordinance shall specify the duties of, the number of members that will serve on, the requirements of membership, and the makeup of the commission. Members shall be appointed by the mayor and approved by the legislative body. No officer or employee of the ***consolidated local government,*** city***,*** or county containing a city of the first class whose duties include enforcement of~~[city or county]~~ housing, building, plumbing, fire or related codes shall be appointed to the commission.

Section 126. KRS 99.720 is amended to read as follows:

(1) The legislative body shall not institute eminent domain proceedings pursuant to KRS 99.705 to 99.730 unless the commission has certified that the property is blighted or deteriorated. A property which has been referred to the commission by a city agency***,*** or ***by*** an agency in a county containing a city of the first class ***or consolidated local government***, as blighted or deteriorated may only be certified to the legislative body as blighted or deteriorated after the commission has determined:

(a) That the owner of the property or designated agent has been sent an order by the appropriate city***, consolidated***

local government, or county agency to eliminate the conditions which are in violation of local codes or law;

(b) That the property is vacant;

(c) That the property is blighted and deteriorated;

(d) That the commission has notified the property owner or designated agent that the property has been determined to be blighted or deteriorated and the time period for correction of such condition has expired and the property owner or agent has failed to comply with the notice; and

(e) That, in counties containing a city of the first class***, consolidated local governments,*** and cities that are within a planning unit established pursuant to KRS Chapter 100, the planning commission has determined that the reuse of the property for residential and related use is in keeping with the comprehensive plan.

(2) The findings required by subsection (1) of this section shall be in writing and included in the report to the legislative body.

(3) The commission shall notify the owner of the property or a designated agent that a determination of blight or deterioration has been made and that failure to eliminate the conditions causing the blight shall render the property subject to condemnation by the city***, consolidated local government,*** or county under KRS 99.705 to 99.730. Notice shall be mailed to the owner or designated agent by certified mail, return receipt requested. However, if the address of the owner or a designated agent is unknown and cannot be ascertained by the commission in the exercise of reasonable diligence, copies of the notice shall be posted in a conspicuous place on the property affected. The written notice sent to the owner or his agent shall describe the conditions that render the property blighted and deteriorated, and shall demand abatement of the conditions within ninety (90) days of the receipt of such notice.

(4) An extension of the ninety (90) day time period may be granted by the commission if the owner or designated agent demonstrates that such period is insufficient to correct the conditions cited in the notice.

Section 127. KRS 99.730 is amended to read as follows:

No officer or employee of the city or county containing a city of the first class ***or consolidated local government***, or of the vacant property review commission, who in the course of his ***or her*** duties is required to participate in the determination of property blight or deterioration or the issuance of notices on code violations which may lead to a determination of blight or deterioration, shall acquire any interest in any property declared to be blighted or deteriorated. If any such officer or employee owns or has financial interest, direct or indirect, in any property certified to be blighted or deteriorated, he ***or she*** shall immediately disclose, in writing, such interest to the commission and to the legislative body and such disclosure shall be entered in the minutes of the commission and of the legislative body. Failure to so disclose such interest shall constitute misconduct in office. No payment shall be made to any officer or employee for any property or interest therein acquired by the city***, consolidated local government,*** or county containing a city of the first class from such officer or employee unless the amount of such payment is fixed by court order in eminent domain proceedings, or unless payment is unanimously approved by the legislative body.

Section 128. KRS 99A.010 is amended to read as follows:

As used in this chapter unless the context otherwise requires:

(1) "Corporation" means the Kentucky Housing Corporation;

(2) "Executive director" means the executive director of the Kentucky Housing Corporation;

(3) "Insurer" means any company qualified to write mortgage guaranty insurance in accordance with Subtitle 23 of KRS Chapter 304;

(4) "Local government" means a county, city, ***consolidated local government,*** or urban-county;

(5) "Mortgage" shall mean a first mortgage on real estate, in fee simple, or on a leasehold under a lease for not less than ninety-nine (99) years which is renewable, or under a lease having a period of not less than fifty (50) years to run from the date the mortgage was executed;

(6) "Mortgage guaranty fund" means the fund created pursuant to KRS 99A.080;

(7) "Mortgagee" means the original lender under a mortgage and his successors and assigns;

(8) "Mortgagor" means the original borrower under a mortgage and his successors and assigns;

(9) "Rehabilitation" means the process of returning a structure to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to historical, architectural, and cultural values;

(10) "Rehabilitation loan" means a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit, made for the purpose of financing:

(a) The rehabilitation of an existing residential building;

(b) The rehabilitation of such a structure and the refinancing of the outstanding indebtedness on such structure and the real property on which the structure is located; or

(c) The rehabilitation of such a structure and the purchase of the structure and the real property on which it is located; and

(11) "Residential building" means a building in which sleeping accommodations or sleeping accommodations and cooking

facilities as a unit are provided except when classified as an institution under the Kentucky Building Code.

Section 129. KRS 100.111 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative official" means any department, employee, or advisory, elected or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation;

(2) "Agricultural use" means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public, and shall also include, regardless of the size of the tract of land used, small wineries licensed under KRS 243.155, and farm wineries licensed under the provisions of KRS 243.156;

(3) "Board" means the board of adjustment unless the context indicates otherwise;

(4) "Citizen member" means any member of the planning commission or board of adjustment who is not an elected or appointed official or employee of the city***,***[~~ or~~] county***, or consolidated local government***;

(5) "Commission" means planning commission;

(6) "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;

(7) "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustment, consisting of two (2) parts:

(a) A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and

(b) A statement of the specific conditions which must be met in order for the use to be permitted;

(8) "Development plan" means written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant;

(9) "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;

(10) "Housing or building regulation" means the Kentucky Building Code, the Kentucky Plumbing Code and any other building or structural code promulgated by the Commonwealth or by its political subdivisions;

(11) "Legislative body" means the chief body of the city ***or consolidated local government*** with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;

(12) "Mayor" means the chief elected official of the city ***or consolidated local government*** whether the official designation of his office is mayor or otherwise;

(13) "Nonconforming use or structure" means an activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;

(14) "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;

(15) "Planning unit" means any city***,***[~~ or~~] county, ***or consolidated local government,*** or any combination of cities, counties, or parts of counties***, or parts of consolidated local governments*** engaged in planning operations;

(16) "Plat" means the map of a subdivision;

(17) "Political subdivision" means any city***,***[~~ or~~] county***, or consolidated local government***;

(18) "Several" means two (2) or more;

(19) "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including, but not limited to, libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;

(20) "Street" means any vehicular way;

(21) "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs;

(22) "Subdivision" means the division of a parcel of land into three (3) or more lots or parcels except in a county containing a city of the first, second or third class or in an urban-county government ***or consolidated local government*** where a

subdivision means the division of a parcel of land into two (2) or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section;

(23) "Unit" means planning unit; and

(24) "Variance" means a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

Section 130. KRS 100.121 is amended to read as follows:

(1) At any time, the legislative bodies of cities and the fiscal court of the county containing the cities may enter into an agreement to form a joint planning unit by combining planning operations in order that they may carry out a joint city-county planning program. Combinations may include any combination of cities with their county or parts thereof; provided, however, that no self-excluded city in such county may form an independent planning unit.

(2) When a planning unit includes a county and a city of the first class ***or consolidated local government created pursuant to KRS Chapter 67C***, then all other cities within the county shall also be parts of the unit.

Section 131. KRS 100.127 is amended to read as follows:

(1) All agreements for joint or regional planning units shall be in writing, and shall describe the boundaries of the area involved, and shall contain all details which are necessary for the establishment and administration of the planning unit in regard to planning commission organization, preparation of plans, and aids to plan implementation. The agreement shall be adopted as an ordinance by the legislative bodies which are parties to the agreement in accordance with the procedures for the adoption of an ordinance pursuant to KRS Chapters 67, 67A, ***67C,*** 83, and 83A, and filed in the office of the county clerk of all counties which are parties to the agreement or which contain a city which is a party to the agreement. The county clerk may charge a fee of two and one-half dollars ($2.50) for the filing of the agreement. Combination under this subsection shall be permitted notwithstanding the fact that the governmental units are also involved in area planning under KRS 147.610 to 147.705. Combined planning operations shall be jointly financed, and the agreement shall state the method of proration of financial support.

(2) Agreements for planning units shall be in existence as long as at least two (2) of the original signators are operating under the combination despite the fact that other signators have withdrawn from the unit. In addition, any enlargement of a unit may be accomplished under the existing agreement by filing a copy of the agreement in the office of the county clerk of all member counties along with a statement as to when it was admitted to the unit. The clerk may charge a fee of two and one-half dollars ($2.50) for the filing.

(3) If the planning unit, or any part thereof, has adopted regulations for historical districts under KRS 100.201 and 100.203, the planning agreement may provide for the creation of a three (3) or five (5) member board to advise the zoning administrator regarding issuance of permits in such districts, the board being guided by the standards and restrictions of the community's comprehensive plan and by the historical district regulations adopted by the planning unit.

(4) Notwithstanding any other provisions of this section, when a planning unit includes a county with a consolidated local government created pursuant to KRS Chapter 67C, a planning agreement is not required.

Section 132. KRS 100.137 is amended to read as follows:

(1) Counties with a population of 300,000 or more inhabitants shall be a planning unit and shall have a planning commission which commission shall be composed of three (3) members, who are nonresidents of the largest city of the county, appointed by the county judge/executive of such county; three (3) members who are residents of the largest city of the county appointed by the mayor of that city; and the mayor of the largest city, or his designee; the county judge/executive, or his designee; the director of works of the largest city in the county, and the county road engineer. The county judge/executive and the mayor together shall ensure that three (3) of the six (6) appointees are citizens who have no direct financial interest in the land development and construction industry. If the commission appoints a citizen member to fill a vacancy, the commission shall ensure that the balance is maintained. All ten (10) members of the planning commission shall be required to disclose any personal or family commercial interest relevant to land use, new development supply, or new development construction. The disclosure shall be a written, signed statement of the general nature of the member's interest. The disclosure shall be filed with the commission's records under KRS 100.167 and shall be available for public inspection during regular business hours. A member shall not vote on an issue in which the member or member's family has an interest. The willful failure of a member to disclose an interest, or a member's voting on an issue in which the member or member's family has a known interest, shall subject the member to removal proceedings under KRS 100.157.

(2) ***A county with a consolidated local government created pursuant to KRS Chapter 67C shall be a planning unit and shall have a planning commission which shall include eight (8) members who are residents of the planning unit, approved by the mayor of the consolidated local government. The membership of the planning commission shall also include the mayor of the consolidated local government, or his or her designee, and the director of public works of the***

consolidated local government or the county engineer as determined by the mayor. The mayor shall ensure that four (4) of the eight (8) appointees are citizens who have no direct financial interest in the land development and construction industry. If the commission appoints a citizen member to fill a vacancy, the commission shall ensure that the balance is maintained. All ten (10) members of the planning commission shall be required to disclose any personal or family commercial interest relevant to land use, new development supply, or new development construction. The disclosure shall be a written, signed statement of the general nature of the member's interest. The disclosure shall be filed with the commission's records pursuant to KRS 100.167 and shall be available for public inspection during regular business hours. A member shall not vote on an issue in which the member or member's family has an interest. The willful failure of a member to disclose an interest, or a member's voting on an issue in which the member or member's family has a known interest, shall subject the member to removal proceedings pursuant to KRS 100.157.

(3) In counties containing a city of the first class ***or a consolidated local government***, all legislation implementing or amending the plan or amended plan which affects cities of the first through fourth classes shall be enacted by such cities and all other legislation implementing the plan or amended plan shall be enacted by the fiscal court ***or, in the case of a consolidated local government, by the consolidated local government***.

(4)[~~(3)~~] In all other counties the establishment of a planning unit is optional, but any planning unit established in other counties shall comply with the remaining provisions of this chapter.

Section 133. KRS 100.141 is amended to read as follows:

Except in counties containing a consolidated local government, the mayor of each city entitled to one or more members and the county judge/executive of each county shall appoint the members of the planning commission with the approval of their respective legislative bodies.

Section 134. KRS 100.157 is amended to read as follows:

(1) Any member of a planning commission may be removed by the appropriate appointing authority for inefficiency, neglect of duty, malfeasance, or conflict of interest. Any appointing authority who exercises the power to remove a member of the planning commission shall submit a written statement to the commission setting forth the reasons for removal, and the statement shall be read at the next meeting of the planning commission, which shall be open to the general public. The member so removed shall have the right of appeal in the Circuit Court.

(2) Notwithstanding subsection (1) of this section, and KRS 100.143, when a city of the first class and a county containing such city have in effect a compact pursuant to KRS 79.310 to 79.330, the terms of the appointed members on the commission shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, the mayor, and county judge/executive with the approval of the fiscal court, shall adjust the terms of the sitting members so that the terms of one (1) of each of their appointments expire in one (1) year, the term of one (1) of each of their appointments expire in two (2) years and the term of one (1) of each of their appointments expire in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years.

(3) Notwithstanding subsections (1) and (2) of this section, and KRS 100.143, upon the establishment of a consolidated local government in a county where a city of the first class and a county containing that city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the terms of the appointed citizen members of the planning commission shall be for three (3) years and until their successors are appointed and qualified, and the term of office of members appointed shall be staggered. Members appointed to the planning commission prior to consolidation of a city of the first class and the county containing the city pursuant to KRS Chapter 67C shall continue to serve as members of the planning commission for the consolidated local government, and shall serve the remainder of the terms for which the members were appointed and until their successors are appointed and qualified pursuant to KRS 100.137(2).

Section 135. KRS 100.201 is amended to read as follows:

(1) Except as provided in subsection ***(3)***[~~(2)~~] of KRS 100.137, when the planning commission and legislative bodies have adopted the statement of goals and objectives, and the planning commission has additionally adopted at least the land use element for the planning unit, the various legislative bodies and fiscal courts of the cities and counties, which are members of the unit, may enact interim zoning or other kinds of growth management regulations which shall have force and effect within their respective jurisdictions for a period not to exceed twelve (12) months, during which time the planning commission shall complete the remaining elements of the comprehensive plan as prescribed by KRS 100.187. Interim regulations shall become void upon the enactment of permanent regulations as provided in subsection (2) of this section, or after twelve (12) consecutive months from the date such interim regulations are enacted, whichever occurs first.

(2) When all required elements of the comprehensive plan have been adopted in accordance with the provisions of this chapter, then the legislative bodies and fiscal courts within the planning unit may enact permanent land use regulations, including zoning and other kinds of growth management regulations to promote public health, safety, morals, and general welfare of the planning unit, to facilitate orderly and harmonious development and the visual or historical character of the unit, and to regulate the density of population and intensity of land use in order to provide for adequate light and air. In addition, land use and zoning regulations may be employed to provide for vehicle parking and loading space, as well as to facilitate fire and police protection, and to prevent the overcrowding of land, blight, danger, and congestion in the circulation of people and commodities, and the loss of life, health, or property from fire, flood, or other dangers. Land use and zoning regulations may also be employed to protect airports, highways, and other transportation facilities, public

facilities, schools, public grounds, historical districts, central business districts, prime agricultural land, and other natural resources; to regulate the use of sludge from water and waste water treatment facilities in projects to improve soil quality; and to protect other specific areas of the planning unit which need special protection by the planning unit.

(3) Land use and zoning regulations may include the designation of specifically defined areas to be known as urban residential zones, in which:

(a) The majority of the structures were in use prior to November 22, 1926; and

(b) 1. The entire area embodies the distinctive characteristics of a type, period, or method of construction; or

2. The entire area represents a significant and distinguishable entity whose components may lack individual distinction.

The usage of structures within an urban residential zone may be regulated on a structure-by-structure basis, permitting a mixture of uses in the zone, including single-family and multi-family residential, retail, and service establishments, which stabilizes and protects the urban residential character of the area. The regulation of the usage of any structure shall be guided by the architecture, size, or traditional use of the building.

Section 136. KRS 100.202 is amended to read as follows:

(1) Subject to KRS ***100.137(3)***[~~100.137(2)~~], nothing in this chapter shall preclude the legislative bodies and fiscal courts of cities and counties comprising a planning unit from enacting a land use regulation which places all property within their respective jurisdictions in a single zone and addressing all land use proposals therein as conditional use permits.

(2) The text of any land use regulation enacted pursuant to this section need not comply with the provisions of KRS 100.203, and may provide that the planning commission shall assume all powers and duties of a board of adjustment as provided in KRS 100.217 to 100.263. Any appeal from an action of the planning commission in granting or denying a variance or conditional use permit shall be taken pursuant to KRS 100.347(2).

Section 137. KRS 100.205 is amended to read as follows:

Except as provided in KRS ***100.137(3)***[~~100.137(2)~~], nothing contained in this chapter shall be construed or implied as requiring the legislative bodies of cities and counties comprising the same joint planning unit to adopt identical zoning regulations. Nor shall the adoption or amendment of a zoning regulation by the legislative body of any city or county contained within a joint planning unit be made contingent on the adoption or amendment of such zoning regulation by the legislative body of any other city or county within the planning unit.

Section 138. KRS 100.208 is amended to read as follows:

(1) Any city, county, ***consolidated local government,*** or urban-county government which is part of a planning unit may provide, by ordinance, for:

(a) The voluntary transfer of the development rights permitted on one (1) parcel of land to another parcel of land;

(b) Restricting or prohibiting further development of the parcel from which development rights are transferred; and

(c) Increasing the density or intensity of development of the parcel to which such rights are transferred.

(2) The ordinance shall designate and show on the zoning map areas from which development rights may be transferred and areas to which such rights may be transferred and used for development. These zones may be designated as separate use districts or as overlaying other zoning districts.

(3) Any city within a county that adopts an ordinance providing for the transfer of development rights, may also adopt a transfer of development rights ordinance and the county and city by adoption of mutual provisions may provide for the transfer of development rights on land located in one to land located in another.

(4) "Transferable development rights" means an interest in real property that constitutes the right to develop and use property under the zoning ordinance which is made severable from the parcel to which the interest is appurtenant and transferable to another parcel of land for development and use in accordance with the zoning ordinance. Transferable development rights may be transferred by deed from the owner of the parcel from which the development rights are derived and upon the transfer shall vest in the grantee and be freely alienable. The zoning ordinance may provide for the method of transfer of these rights and may provide for the granting of easements and reasonable regulations to effect and control transfers and assure compliance with the provisions of the ordinance.

Section 139. KRS 100.209 is amended to read as follows:

(1) When a city which has adopted zoning or other land use regulations pursuant to this chapter proposes to annex unincorporated or accept the transfer of incorporated territory, it may amend its comprehensive plan and official zoning map to incorporate and establish zoning or other land use regulations for the property proposed for annexation or transfer prior to adoption of the ordinance of annexation or transfer. If the city elects to follow this procedure, the planning commission shall hold a public hearing, after the adoption of the ordinance stating the city's intention to annex or transfer property and prior to final action upon the ordinance of annexation or transfer, for the purpose of adopting the comprehensive plan amendment and making its recommendations as to the zoning or other land use regulations which will be effective for the property upon its annexation or transfer. Notice setting forth the time, date, location, and purpose of the public hearing shall be published as required by KRS Chapter 424 and shall be given to the owners of all properties within

the area proposed for annexation or transfer and to adjoining property owners in accordance with KRS 100.212(2). The city legislative body shall take final action upon the planning commission's recommendations prior to adoption of the ordinance of annexation or transfer and shall include in the ordinance of annexation or transfer a map showing the zoning or other land use regulations which will be effective for the annexed or transferred property. If the city elects not to follow the procedure provided for in this section prior to the adoption of the ordinance of annexation or transfer, the newly annexed or transferred territory shall remain subject to the same land use restrictions, if any, as applied to it prior to annexation or transfer until those restrictions are changed by zoning map amendments or other regulations in accordance with this chapter.

(2) When a city is created or when a city of the fifth or sixth class is reclassified to a city of the fourth class or higher in a county containing a city of the first class ***or a consolidated local government***, and the intent is to regulate land use within the confines of the city, the process for adopting or amending the comprehensive plan and adopting zoning or other land use regulations shall be as provided for in this chapter. Until such actions have been taken, the properties within the city shall remain subject to the land use restrictions, if any, as applied prior to the creation or reclassification of the city.

Section 140. KRS 100.211 is amended to read as follows:

(1) A proposal for a zoning map amendment may originate with the planning commission of the unit, with any fiscal court or legislative body which is a member of the unit, or with an owner of the property in question. Regardless of the origin of the proposed amendment, it shall be referred to the planning commission before adoption. The planning commission shall then hold at least one (1) public hearing after notice as required by this chapter and make findings of fact and a recommendation of approval or disapproval of the proposed map amendment to the various legislative bodies or fiscal courts involved. The findings of fact and recommendation shall include a summary of the evidence and testimony presented by the proponents and opponents of the proposed amendment. A tie vote shall be subject to further consideration by the planning commission for a period not to exceed thirty (30) days, at the end of which if the tie has not been broken, the application shall be forwarded to the fiscal court or legislative body without a recommendation of approval or disapproval. It shall take a majority of the entire legislative body or fiscal court to override the recommendation of the planning commission and it shall take a majority of the entire legislative body or fiscal court to adopt a zoning map amendment whenever the planning commission forwards the application to the fiscal court or legislative body without a recommendation of approval or disapproval due to a tie vote. Unless a majority of the entire legislative body or fiscal court votes to override the planning commission's recommendation, such recommendation shall become final and effective and if a recommendation of approval was made by the planning commission, the ordinance of the fiscal court or legislative body adopting the zoning map amendment shall be deemed to have passed by operation of law.

(2) A proposal to amend the text of any zoning regulation which must be voted upon by the legislative body or fiscal court may originate with the planning commission of the unit or with any fiscal court or legislative body which is a member of the unit. Regardless of the origin of the proposed amendment, it shall be referred to the planning commission before adoption. The planning commission shall hold at least one (1) public hearing after notice as required by KRS Chapter 424 and make a recommendation as to the text of the amendment and whether the amendment shall be approved or disapproved and shall state the reasons for its recommendation. In the case of a proposed amendment originating with a legislative body or fiscal court, the planning commission shall make its recommendation within sixty (60) days of the date of its receipt of the proposed amendment. It shall take an affirmative vote of a majority of the fiscal court or legislative body to adopt the proposed amendment.

(3) Procedures prescribed in KRS 100.207 applicable to the publication of notice also shall apply to any proposed amendment to a zoning regulation text or map; provided that:

(a) Any published notice shall include the street address of the property in question, or if one is not available or practicable due to the number of addresses involved, a geographic description sufficient to locate and identify the property, and the names of two (2) streets on either side of the property which intersect the street on which the property is located; and

(b) When the property in question is located at the intersection of two (2) streets, the notice shall designate the intersection by name of both streets rather than name the two (2) streets on either side of the property.

(4) When a property owner proposes to amend the zoning map of any planning unit other than a planning unit containing a city of the first class ***or a consolidated local government***, the provisions of KRS 100.212 shall apply in addition to the requirements and procedures prescribed in subsection (3) of this section.

(5) When a property owner proposes to amend the zoning map of any planning unit comprising any portion of a county containing a city of the first class ***or a consolidated local government***, the provisions of KRS 100.214 shall apply in addition to the requirements and procedures prescribed in subsection (3) of this section.

(6) In addition to the public notice requirements prescribed in subsection (3) of this section, when the planning commission, fiscal court, or legislative body of any planning unit originates a proposal to amend the zoning map of that unit, notice of the public hearing before the planning commission, fiscal court, or legislative body shall be given at least thirty (30) days in advance of the hearing by first class mail to an owner of every parcel of property the classification of which is proposed to be changed. Records by the property valuation administrator may be relied upon to determine the identity and address of said owner.

(7) The fiscal court or legislative body shall take final action upon a proposed zoning map amendment within ninety (90) days of the date upon which the planning commission takes its final action upon such proposal.

Section 141. KRS 100.212 is amended to read as follows:

When in any planning unit except for a planning unit containing a city of the first class ***or a consolidated local government***, a hearing is scheduled on a proposal by a property owner to amend any zoning map, the following notice shall be given in addition to any other notice required by statute, local regulation, or ordinance:

(1) Notice of the hearing shall be posted conspicuously on the property the classification of which is proposed to be changed for fourteen (14) consecutive days immediately prior to the hearing. Posting shall be as follows:

(a) The sign shall state "zoning change" and the proposed classification change in letters three (3) inches in height. The time, place, and date of hearing shall be in letters at least one (1) inch in height; and

(b) The sign shall be constructed of durable material and shall state the telephone number of the appropriate zoning commission; and

(2) Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing by first class mail, with certification by the commission secretary or other officer of the planning commission that the notice was mailed to an owner of every parcel of property adjoining the property the classification of which is proposed to be changed. It shall be the duty of the person or persons proposing the map amendment to furnish to the planning commission the names and addresses of the owners of all adjoining property. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of the owner. If the property is in condominium or cooperative forms of ownership, the person notified by mail shall be the president or chairman of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.

(3) If the property the classification of which is proposed to be changed adjoins property in a different planning unit, or property which is not part of any planning unit, notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first-class mail to certain public officials, as follows:

(a) If the adjoining property is part of a planning unit, notice shall be given to that unit's planning commission; or

(b) If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

Section 142. KRS 100.214 is amended to read as follows:

When in any planning unit containing any portion of a county containing a city of the first class ***or a consolidated local government*** a hearing is scheduled on a proposal by a property owner to amend any zoning map the following notice shall be given in addition to any other notice required by statute by local regulation or ordinance to be given:

(1) Notice of the hearing shall be posted conspicuously on the property the classification of which is proposed to be changed thirty (30) days immediately prior to the hearing. Posting shall be as follows:

(a) The sign shall state "zoning change" and the proposed classification change in letters three (3) inches in height. The time, place and date of hearing shall be in letters at least one (1) inch in height; and

(b) The sign shall be constructed of durable material and shall state the telephone number of the appropriate zoning commission;

(2) Notice of the hearing shall be given at least thirty (30) days in advance of the hearing by first class mail, with certification by the commission secretary or other officer of the planning commission that the notice was mailed, to the mayor and city clerk of any city of the fifth or sixth class so affected, to an owner of every parcel of property adjoining at any point the property the classification of which is proposed to be changed, to an owner of every parcel of property directly across the street from said property, and to an owner of every parcel of property which adjoins at any point the adjoining property or the property directly across the street from said property; provided, however, that no first-class mail notice, required by this subsection, shall be required to be given to any property owner whose property is more than five hundred (500) feet from the property which is proposed to be changed. It shall be the duty of the person or persons proposing the map amendment to furnish to the planning commission the names and addresses of the owners of all property as described in this subsection. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairman of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address;

(3) If the hearing has been scheduled for a time during normal working hours, and if, within fifteen (15) days of the scheduled date of the hearing the planning commission shall receive a petition from two hundred (200) property owners living within the planning unit requesting that the hearing be rescheduled for a time after normal working hours, then the planning commission shall reschedule the hearing for a time after normal working hours on a date no earlier than the date of the original hearing. The planning commission shall then publish notice of the new hearing time and date according to the

provisions of KRS 100.211, except that notice shall occur at least seven (7) days prior to the public hearing. The sign required by subsection (1) of this section shall be changed to reflect the new hearing time and date at least seven (7) days prior to the public hearing. The persons who receive mail notice according to the provisions of subsection (2) of this section shall again be notified in the same manner of the new hearing time and date at least seven (7) days prior to the hearing. The hearing time shall not be changed more than once by the procedures of this section except in the event of intervening emergency which requires the cancellation of a hearing; and

(4) Notice by mail shall include a list of the names and addresses of each person so notified, and a description of the procedure by which those notified can petition for a change in the hearing time.

Section 143. KRS 100.217 is amended to read as follows:

(1) Before any zoning regulation may have legal effect within the planning unit, a board or boards of adjustment shall be appointed for the planning unit as stated in the agreement under which the unit operates. The agreement may provide for additional boards of adjustment with jurisdiction of a particular city or area within the planning unit. Provided, that the jurisdiction of the boards of adjustment so established shall be clearly defined as to territorial limits, that all territory within the planning unit is within the jurisdiction of some board of adjustment so established and that no territory is subject to the jurisdiction of more than one (1) board of adjustment, except as provided in KRS 100.203(5). ***In a county containing a consolidated local government where a planning agreement is not required, there shall be one (1) board of adjustment which shall be established by ordinance of the consolidated local government. Until such time as the consolidated local government establishes and appoints a board of adjustment pursuant to this subsection, the existing board of adjustment for the county shall serve as the board of adjustment for the entire planning unit.***

(2) A board of adjustment shall consist of either three (3), five (5), or seven (7) members, all of whom must be citizen members, and not more than two (2) of whom may be citizen members of the planning commission.

(3) The mayor shall be the appointing authority for cities, and the county judge/executive shall be the appointing authority for counties, subject to the approval of their respective legislative bodies. ***The mayor shall be the appointing authority for a consolidated local government.***

(4) The term of office for the board of adjustment shall be four (4) years, but the term of office of members first appointed shall be staggered so that a proportionate number serve one (1), two (2), three (3), and four (4) years respectively.

(5) Vacancies on the board of adjustment shall be filled within sixty (60) days by the appropriate appointing authority. If the authority fails to act within that time, the planning commission shall fill the vacancy. When a vacancy occurs other than through expiration of the term of office, it shall be filled for the remainder of that term.

(6) All members of boards of adjustment shall, before entering upon their duties, qualify by taking the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky before any judge, county judge/executive, notary public, clerk of a court, or justice of the peace within the district or county in which he resides.

(7) Reimbursement for expenses or compensation or both may be authorized for members on a board of adjustment.

(8) Any member of a board of adjustment may be removed by the appropriate appointing authority for inefficiency, neglect of duty, malfeasance, or conflict of interest. Any appointing authority who exercises the power to remove a member of the board of adjustment shall submit a written statement to the commission setting forth the reasons for removal, and the statement shall be read at the next meeting of the board of adjustment, which shall be open to the general public. The member so removed shall have the right of appeal from the removal to the Circuit Court of the county in which he resides.

(9) Notwithstanding subsection (4) of this section, when a city of the first class and a county containing such city have in effect a compact pursuant to KRS 79.310 to 79.330, the terms of the members on the board shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, if the board is not reorganized pursuant to subsection (1) of this section, the mayor, and county judge/executive with approval of the fiscal court, shall adjust the terms of the sitting members to provide that the terms of one-third (1/3) plus one (1) of the members expire in one (1) year, the terms of one-third (1/3) of the members in two (2) years and the terms of one-third (1/3) of the members expire in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years. ***Notwithstanding subsection (4) of this section, upon the establishment of a consolidated local government in a county where a city of the first class and a county containing such city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the terms of the members on the board shall be for three (3) years and until their successors are appointed and qualified. Upon expiration of the terms of incumbent members, their successors shall be appointed to three (3) year terms which are staggered.***

(10) Each board of adjustment annually shall elect a chairman, vice chairman, and secretary and any other officers it deems necessary, and any officer shall be eligible for reelection at the expiration of his term.

Section 144. KRS 100.237 is amended to read as follows:

The board shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named in the zoning regulations which may be suitable only in specific locations in the zone only if certain conditions are met:

(1) The board may approve, modify, or deny any application for a conditional use permit. If it approves such permit it may attach necessary conditions such as time limitations, requirements that one (1) or more things be done before the request

can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the board's minutes and on the conditional use permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. The board shall have power to revoke conditional use permits, or variances for noncompliance with the condition thereof. Furthermore, the board shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in personam for such cost.

(2) Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of building, housing, and other regulations.

(3) In any case where a conditional use permit has not been exercised within the time limit set by the board, or within one (1) year, if no specific time limit has been set, such conditional use permit shall not revert to its original designation unless there has been a public hearing. "Exercised," as set forth in this section, shall mean that binding contracts for the construction of the main building or other improvement have been let; or in the absence of contracts that the main building or other improvement is under construction to a substantial degree, or that prerequisite conditions involving substantial investment under contract, in development, are completed. When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions as set forth in the permit.

(4) The administrative official shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the conditional use permit. If the landowner is not complying with all of the conditions listed on the conditional use permit, the administrative official shall report the fact in writing to the chairman of the board of adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time that it is furnished to the chairman of the board of adjustment. The board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner at least one (1) week prior to the hearing. If the board of adjustment finds that the facts alleged in the report of the administrative official are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the board of adjustment may authorize the administrative official to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.

(5) Once the board of adjustment has completed a conditional use permit and all the conditions required are of such type that they can be completely and permanently satisfied, the administrative official, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied, and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of the conditional use permit which is on file. Thereafter said use, if it continues to meet the other requirements of the regulations, will be treated as a permitted use.

(6) When an application is made for a conditional use permit for land located within or abutting any residential zoning district, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, administrative official, the mayor and city clerk of any city of the fifth or sixth class so affected, within any county containing a city of the first class ***or a consolidated local government***, an owner of every parcel of property adjoining the property to which the application applies and such other persons as the local zoning ordinance, regulations, or board of adjustment bylaws shall direct. Written notice shall be by first class mail with certification by the board's secretary or other officer that the notice was mailed. It shall be the duty of the applicant to furnish to the board the name and address of an owner of each parcel of property as described in this subsection. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.

(7) When any property within the required notification area for a public hearing upon a conditional use permit application is located within an adjoining city, county, or planning unit, notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first-class mail to certain public officials, as follows:

(a) If the adjoining property is part of a planning unit, notice shall be given to that unit's planning commission; or

(b) If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

Section 145. KRS 100.253 is amended to read as follows:

(1) The lawful use of a building or premises, existing at the time of the adoption of any zoning regulations affecting it may be continued, although such use does not conform to the provisions of such regulations, except as otherwise provided herein.

(2) The board of adjustment shall not allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at the time the regulation which makes its use nonconforming was adopted, nor shall the board permit a change from one nonconforming use to another unless the new nonconforming use is in the same or a more restrictive classification, provided, however, the board of adjustment may grant approval, effective to maintain nonconforming-use

status, for enlargements or extensions, made or to be made, of the facilities of a nonconforming use, where the use consists of the presenting of a major public attraction or attractions, such as a sports event or events, which has been presented at the same site over such period of years and has such attributes and public acceptance as to have attained international prestige and to have achieved the status of a public tradition, contributing substantially to the economy of the community and state, of which prestige and status the site is an essential element, and where the enlargement or extension was or is designed to maintain the prestige and status by meeting the increasing demands of participants and patrons.

(3) Any use which has existed illegally and does not conform to the provisions of the zoning regulations, and has been in continuous existence for a period of ten (10) years, and which has not been the subject of any adverse order or other adverse action by the administrative official during said period, shall be deemed a nonconforming use. Thereafter, such use shall be governed by the provisions of subsection (2) of this section.

(4) The provisions of subsection (3) of this section shall not apply to counties containing a city of the first class, a city of the second class, ***a consolidated local government,*** or ***an*** urban-county government.

Section 146. KRS 100.277 is amended to read as follows:

(1) All subdivision of land shall receive commission approval.

(2) No person or his agent shall subdivide any land, before securing the approval of the planning commission of a plat designating the areas to be subdivided, and no plat of a subdivision of land within the planning unit jurisdiction shall be recorded by the county clerk until the plat has been approved by the commission and the approval entered thereon in writing by the chairman, secretary, or other duly authorized officer of the commission.

(3) No person owning land composing a subdivision, or his agent, shall transfer or sell any lot or parcel of land located within a subdivision by reference to, or by exhibition, or by any other use of a plat of such subdivision, before such plat has received final approval of the planning commission and has been recorded. Any such instrument of transfer or sale shall be void and shall not be subject to be recorded unless the subdivision plat subsequently receives final approval of the planning commission, but all rights of such purchaser to damages are hereby preserved. The description of such lot or parcel by metes and bounds in any instrument of transfer or other document used in the process of selling or transferring same shall not exempt the person attempting to transfer from penalties provided or deprive the purchaser of any rights or remedies he may otherwise have. Provided, however, any person, or his agent, may agree to sell any lot or parcel of land located within a subdivision by reference to an unapproved or unrecorded plat or by reference to a metes and bounds description of such lot and any such executory contract of sale or option to purchase may be recorded and shall be valid and enforceable so long as the subdivision of land contemplated therein is lawful and the subdivision plat subsequently receives final approval of the planning commission.

(4) Any street or other public ground which has been dedicated shall be accepted for maintenance by the legislative body after it has received final plat approval by the planning commission. Any street that has been built in accordance with specific standards set forth in subdivision regulations or by ordinance shall be, by operation of law, automatically accepted for maintenance by a legislative body forty-five (45) days after inspection and final approval.

(5) Any instrument of transfer, sale or contract that would otherwise have been void under this section and under any of its subsections previously, is deemed not to have been void, but merely not subject to be recorded unless the subdivision plat subsequently receives final approval of the planning commission. This subsection shall not apply to instruments of transactions affecting property in counties containing cities of the first class***, in consolidated local governments created pursuant to KRS Chapter 67C,*** or in urban-counties created pursuant to KRS Chapter 67A.

Section 147. KRS 100.324 is amended to read as follows:

(1) All other provisions of this chapter to the contrary notwithstanding, public utilities operating under the jurisdiction of the Public Service Commission, except as specified in KRS 100.987 and subsection (5) of this section, or the Department of Vehicle Regulation or Federal Power Commission, any municipally-owned electric system, and common carriers by rail shall not be required to receive the approval of the planning unit for the location or relocation of any of their service facilities. Service facilities include all facilities of such utilities and common carriers by rail other than office space, garage space, and warehouse space and include office space, garage space, and warehouse space when such space is incidental to a service facility. The Public Service Commission and the Department of Vehicle Regulation shall give notice to the planning commission of any planning unit of any hearing which affects locations or relocations of service facilities within that planning unit's jurisdiction.

(2) The nonservice facilities excluded in subsection (1) of this section must be in accordance with the zoning regulations.

(3) Upon the request of the planning commission, the public utilities referred to in this section shall provide the planning commission of the planning unit affected with information concerning service facilities which have been located on and relocated on private property.

(4) Any proposal for acquisition or disposition of land for public facilities, or changes in the character, location, or extent of structures or land for public facilities, excluding state and federal highways and public utilities and common carriers by rail mentioned in this section, shall be referred to the commission to be reviewed in light of its agreement with the comprehensive plan, and the commission shall, within sixty (60) days from the date of its receipt, review the project and advise the referring body whether the project is in accordance with the comprehensive plan. If it disapproves of the project,

it shall state the reasons for disapproval in writing and make suggestions for changes which will, in its opinion, better accomplish the objectives of the comprehensive plan. No permit required for construction or occupancy of such public facilities shall be issued until the expiration of the sixty (60) day period or until the planning commission issues its report, whichever occurs first.

(5) Every utility which proposes to construct an antenna tower for cellular telecommunications services or personal communications services within a county containing a city of the first class ***or a consolidated local government*** shall submit the proposal to the planning commission of the affected planning unit. The planning commission shall review the proposal in light of its agreement with the comprehensive plan and locally-adopted zoning regulations and shall, within sixty (60) days from the date the proposal is submitted, make its final decision and advise the utility in writing whether the proposed construction is in accordance with the comprehensive plan and locally-adopted zoning regulations. If the planning commission fails to issue a final decision within sixty (60) days, it is presumed to have approved the proposal, and may not later appeal a decision of the Public Service Commission under KRS 278.650(3). If the planning commission disapproves of the proposed construction, it shall state the reasons for disapproval in its written decision and may make suggestions which, in its opinion, better accomplish the objectives of the comprehensive plan and the locally-adopted zoning regulations. No permit for construction of a cellular or personal communications services antenna tower, including any certificate of convenience and necessity required to be issued by the Kentucky Public Service Commission, shall be issued until the expiration of the sixty (60) day period or until the planning commission issues its final decision on the utility proposal, whichever occurs first.

Section 148. KRS 100.331 is amended to read as follows:

Except in counties containing a consolidated local government, fiscal courts are granted all the legislative powers granted to all cities for purposes of adopting regulations and legislation proposed under this chapter.

Section 149. KRS 100.347 is amended to read as follows:

(1) Any person or entity claiming to be injured or aggrieved by any final action of the board of adjustment shall appeal from the action to the Circuit Court of the county in which the property, which is the subject of the action of the board of adjustment, lies. Such appeal shall be taken within thirty (30) days after the final action of the board. All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. The board of adjustment shall be a party in any such appeal filed in the Circuit Court.

(2) Any person or entity claiming to be injured or aggrieved by any final action of the planning commission shall appeal from the final action to the Circuit Court of the county in which the property, which is the subject of the commission's action, lies. Such appeal shall be taken within thirty (30) days after such action. Such action shall not include the commission's recommendations made to other governmental bodies. All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. Provided, however, any appeal of a planning commission action granting or denying a variance or conditional use permit authorized by KRS 100.203(5) shall be taken pursuant to this subsection. In such case, the thirty (30) day period for taking an appeal begins to run at the time the legislative body grants or denies the map amendment for the same development. The planning commission shall be a party in any such appeal filed in the Circuit Court.

(3) Any person or entity claiming to be injured or aggrieved by any final action of the legislative body of any city, county***,*** ***consolidated local government,*** or urban-county government, relating to a map amendment shall appeal from the action to the Circuit Court of the county in which the property, which is the subject of the map amendment, lies. Such appeal shall be taken within thirty (30) days after the final action of the legislative body. All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. The legislative body shall be a party in any such appeal filed in the Circuit Court.

(4) The owner of the subject property and applicants who initiated the proceeding shall be made parties to the appeal. Other persons speaking at the public hearing are not required to be made parties to such appeal.

(5) For purposes of this chapter, final action shall be deemed to have occurred on the calendar date when the vote is taken to approve or disapprove the matter pending before the body.

Section 150. KRS 100.401 is amended to read as follows:

It is the intent of KRS 100.401 to 100.419 to strengthen the enforcement of binding elements which have been approved as part of a land use development plan in a county containing a city of the first class ***or consolidated local government***. This is intended to be done by extending to a planning commission in counties containing a city of the first class ***or consolidated local government*** the authority to issue remedial orders and impose civil fines in order to provide an equitable, expeditious, effective, and inexpensive method of ensuring compliance with approved land use plans as they apply to binding element agreements. KRS 100.401 to 100.419 is intended and shall be construed to provide an additional or supplemental means of obtaining compliance with local zoning ordinances and nothing contained in KRS 100.401 to 100.419 shall prohibit the enforcement of local zoning ordinances by any other means authorized by law.

Section 151. KRS 100.403 is amended to read as follows:

As used in KRS 100.401 to 100.419, unless the context otherwise requires:

(1) "Land use enforcement officer" in a county containing a city of the first class ***or consolidated local government*** means

an[~~a zoning enforcement~~] officer ***authorized***[~~employed~~] by a planning commission ***to enforce binding elements***.

(2) "Land use ordinance" in a county containing a city of the first class ***or consolidated local government*** means an official action of a local government body which is a regulation of a general and permanent nature relating to the use and development of land within the jurisdictional boundary of the planning commission. It is enforceable as a local law and shall include any provision of a code of ordinances adopted by a local government which embodies all or part of an ordinance.

(3) "Local government" means a county containing a city of the first class ***or consolidated local government*** and all cities of the first through fourth classes within ***the***[~~that~~] county.

(4) "Binding element" in a county containing a city of the first class ***or consolidated local government*** means a binding requirement, provision, restriction, or condition imposed by a planning commission or its designee, or a promise or agreement made by an applicant in writing in connection with the approval of a land use development plan or subdivision plan.

Section 152. KRS 100.405 is amended to read as follows:

(1) The planning commission in counties containing a city of the first class ***or a consolidated local government*** may issue remedial orders and impose civil fines as a method of enforcing a binding element when a violation of that binding element has been classified as a civil offense in accordance with this section.

(2) Subject to the limitations set forth in subsections (1) and (3) of this section, if a local government elects to enforce a binding element as a civil offense, it shall do so by ordinance, which shall provide:

(a) That a violation of the binding element is a civil offense; and

(b) A maximum civil fine that may be imposed for each violation of a binding element.

(3) No local government shall classify the violation of a binding element as a civil offense if the violation would also constitute an offense under any provision of the Kentucky Revised Statutes, including specifically, and without limitation, any provision of the Kentucky Penal Code and any moving motor vehicle offense.

Section 153. KRS 100.985 is amended to read as follows:

In addition to the definitions set forth in KRS 100.111, the following definitions shall apply to KRS 100.985 to 100.987:

(1) "Cellular antenna tower" means a tower constructed for, or an existing facility that has been adapted for, the location of transmission or related equipment to be used in the provision of cellular telecommunications services or personal communications services;

(2) "Cellular telecommunications service" means a retail telecommunications service that uses radio signals transmitted through cell sites and mobile switching stations;

(3) "Co-location" means locating two (2) or more transmission antennas or related equipment on the same cellular antenna tower;

(4) "Personal communication service" has the meaning as defined in 47 U.S.C. sec. 332(c);

(5) "Uniform application" means an application for a certificate of convenience and necessity issued under KRS 278.020 submitted by a utility to the Public Service Commission to construct an antenna tower for cellular telecommunications services of personal communications service in a jurisdiction, that has adopted planning and zoning regulations in accordance with this chapter, except for any county that contains a city of the first class ***or a consolidated local government***; and

(6) "Utility" has the meaning as defined in KRS 278.010(3).

Section 154. KRS 100.987 is amended to read as follows:

(1) A planning unit as defined in KRS 100.111 and legislative body or fiscal court that has adopted planning and zoning regulations, except for a county that contains a city of the first class ***or a consolidated local government*** as provided under KRS 278.650, may plan for and regulate the siting of cellular antenna towers in accordance with locally adopted planning or zoning regulations in this chapter by officially registering with the Public Service Commission. The registration shall be in the form of an official resolution adopted by the local planning commission. Nothing in this section shall require a planning unit and legislative body or fiscal court to plan for and regulate the siting of cellular antenna towers.

(2) Every utility or a company that is engaged in the business of providing the required infrastructure to a utility that proposes to construct an antenna tower for cellular telecommunications services or personal communications services within the jurisdiction of a planning unit that has adopted planning and zoning regulations in accordance with this chapter, except for a county that contains a city of the first class ***or a consolidated local government*** as provided under KRS 278.650, and that has officially registered with the Public Service Commission shall:

(a) Submit a copy of the utility's completed uniform application to the planning commission of the affected planning unit to construct an antenna tower for cellular or personal telecommunications services within five (5) days of applying to the Public Service Commission for a certificate of necessity and convenience as required by KRS 278.020(1). The uniform application shall include a grid map that shows the location of all existing cellular antenna towers and that indicates the general position of proposed construction sites for new cellular antenna towers within an area that includes:

1. All of the planning unit's jurisdiction; and
2. A one-half (1/2) mile area outside of the boundaries of the planning unit's jurisdiction, if that area contains either existing or proposed construction sites for cellular antenna towers;

(b) Include in any contract with an owner of property upon which a cellular antenna tower is to be constructed, a provision that specifies, in the case of abandonment, a method that the utility will follow in dismantling and removing a cellular antenna tower including a timetable for removal; and

(c) Comply with any local ordinances concerning land use, subject to the limitations imposed by 47 U.S.C. sec. 332(c), KRS 278.030, 278.040, and 278.280.

(3) Commencing from the time that a utility files a uniform application with the Public Service Commission, all information contained in the uniform application and any updates, except for information that specifically identifies the proposed location of the cellular antenna tower then being reviewed by the applying utility, shall be deemed confidential and proprietary within the meaning of KRS 61.878. The Public Service Commission and the local planning commission shall deny any public request for the inspection of this information, whether submitted under Kentucky's Open Records Act or otherwise, except when ordered to release the information by a court of competent jurisdiction. Any person violating this subsection shall be guilty of official misconduct in the second degree as provided under KRS 522.030.

(4) After receiving the uniform application to construct a cellular antenna tower, the planning commission shall:

(a) Review the uniform application in light of its agreement with the comprehensive plan and locally adopted zoning regulations;

(b) Make its final decision to approve or disapprove the uniform application; and

(c) Advise the utility and the Public Service Commission in writing of its final decision within sixty (60) days commencing from the date that the uniform application is received by the planning commission or within a date certain specified in a written agreement between the local planning commission and the utility. If the planning commission fails to issue a final decision within sixty (60) days and if there is no written agreement between the local planning commission and the utility to a specific date for the planning commission to issue a decision, it is presumed that the local planning commission has approved the utility's uniform application.

(5) (a) If the planning commission disapproves of the proposed construction, it shall state the reasons for disapproval in its written decision and may make suggestions which, in its opinion, better accomplish the objectives of the comprehensive plan and the locally adopted zoning regulations. No permit for construction of a cellular or personal communications services antenna tower, including any certificate of convenience and necessity required to be issued by the Kentucky Public Service Commission, shall be issued until the planning commission approves the uniform application or the sixty (60) day time period has expired, whichever occurs first. If a planning commission rejects the uniform application to construct an antenna tower, the Public Service Commission may override the decision of the planning commission and issue a certificate of convenience and necessity for construction of the cellular or personal communications services antenna tower, if it determines that there is no acceptable alternate site and that the public convenience and necessity requires the proposed construction.

(b) Any party, other than the applying utility, that is aggrieved by the final action of a planning commission under this section, may intervene in the action to the Public Service Commission, but this appeal shall not automatically postpone action by the Public Service Commission.

(6) The planning commission may require the utility to make a reasonable attempt to co-locate additional transmitting or related equipment on any new or existing towers, if there is available space on the tower and the co-location does not interfere with the structural integrity of the tower and does not require the owner of the tower to make substantial alterations to the tower. A planning commission may provide the location of existing cellular antenna towers on which the commission deems the applying utility can successfully co-locate its transmitting and related equipment. If the local planning commission requires the utility to attempt co-location, the utility shall provide the local planning unit with a statement indicating that the utility has:

(a) Successfully attempted to co-locate on towers designed to host multiple wireless service providers' facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the utility's facilities, and that identifies the location of the tower which the applying utility will co-locate its transmission and related facilities on; or

(b) Unsuccessfully attempted to co-locate on towers designed to host multiple wireless service provider's facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the utility's facilities and that:

1. Identifies the location of the towers which the applying utility attempted to co-locate on; and
2. Lists the reasons why the co-location was unsuccessful in each instance.

(7) The local planning commission may deny a uniform application to construct a cellular antenna tower based on a utility's unwillingness to attempt to co-locate additional transmitting or related equipment on any new or existing towers.

(8) In the event of co-location, a utility shall be considered the primary user of the tower, if the utility is the owner of the antenna tower and if no other agreement exists that prescribes an alternate arrangement between the parties for use of the tower. Any other entity that co-locates transmission or related facilities on a cellular antenna tower shall do so in a manner that does not impose additional costs or operating restrictions on the primary user.

Section 155. KRS 108.060 is amended to read as follows:

A civil service system for employees of the district may be established by the council in accordance with the plan outlined for cities of the first class ***or a consolidated local government*** under KRS 90.110 to 90.230.

Section 156. KRS 132.012 is amended to read as follows:

As used in this section and in KRS 91.285, unless the context otherwise requires:

(1) "Abandoned urban property" means any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly developed urban area which has been vacant or unimproved for a period of at least one (1) year and which:

(a) Because it is dilapidated, unsanitary, unsafe, vermin infested, or otherwise dangerous to the safety of persons, it is unfit for its intended use; or

(b) By reason of neglect or lack of maintenance has become a place for the accumulation of trash and debris, or has become infested with rodents or other vermin; or

(c) Has been tax delinquent for a period of at least three (3) years.

(2) For purposes of local taxation in cities of the first class ***or consolidated local governments***, there shall be a classification of real property known as abandoned urban property. The legislative body of a city of the first class ***or consolidated local government*** may levy a rate of taxation on abandoned urban property higher than the prevailing rate of taxation on other real property in the city ***or consolidated local government***. The limitation upon tax rates established by KRS 132.027 shall not apply to the rate of taxation on abandoned urban property.

Section 157. KRS 132.015 is amended to read as follows:

The property valuation administrator shall maintain lists of all real property additions and real property deletions to the property tax rolls for the county***, consolidated local government,*** or urban-county, and each city, school district***,*** and special district in the county***, consolidated local government,*** or urban-county, and shall certify such lists to the Revenue Cabinet, the city clerk of each city in the county which elects to use the annual county assessment as provided for in KRS 132.285, the treasurer or chief officer of each special district in the county, and the chief administrative officer of the urban-county ***and the consolidated local government*** at the time he files his recapitulation of property assessed on the tax roll with the Revenue Cabinet.

Section 158. KRS 132.017 is amended to read as follows:

(1) (a) That portion of a tax rate levied by an ordinance, order, resolution, or motion of a county fiscal court, district board of education or legislative body of a city, urban-county government***, consolidated local government,*** or other taxing district subject to recall as provided for in KRS 68.245, 132.023, 132.027 and 160.470, shall go into effect forty-five (45) days after its passage. If during the forty-five (45) days next following the passage of the order, resolution, or motion, a petition signed by a number of registered and qualified voters equal to ten percent (10%) of the voters voting in the last presidential election is presented to the county clerk or his authorized deputy protesting against passage of the ordinance, order, resolution, or motion, the ordinance, order, resolution, or motion shall be suspended from going into effect until after the election referred to in subsection (2) of this section. When the petition is presented to the county clerk or his authorized deputy, the officer shall immediately notify the presiding officer of the appropriate fiscal court, district board of education,[~~ or~~] legislative body of a city***, consolidated local government,***[~~ or~~] urban-county government***,*** or other taxing district, as the case may be. Each sheet of the petition shall contain the names, residence addresses, and Social Security numbers or dates of birth of voters in but one (1) voting precinct, and each sheet shall state the name, number, or designation of the precinct and, where applicable, the name, designation, or number of the district or ward wherein the precinct is situated. The county clerk shall make the conclusive determination of whether the petition contains enough signatures of qualified voters to suspend the effect of the order or resolution.

(b) The county fiscal court, district board of education, or legislative body of a city, urban-county government, ***consolidated local government,*** or other taxing district may cause the cancellation of the election by reconsidering the ordinance, order, resolution, or motion and amending the ordinance, order, resolution, or motion to levy a tax rate which will produce no more revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 from real property. The action by the county fiscal court, district board of education, legislative body of a city, urban-county government, ***consolidated local government,*** or other taxing district shall be valid only if taken within fifteen (15) days following the date of the presentation of the petition.

(2) (a) If an election is necessary under the provisions of subsection (1) of this section, the county fiscal court***,***[~~ or~~] legislative body of a city, urban-county government, ***consolidated local government,*** or other taxing district shall cause to be submitted to the voters of the county, district, ***consolidated local government,*** or urban-county at the next regular election, the question as to whether the property tax rate shall be levied. The question shall be submitted to the county clerk not later than the second Tuesday in August preceding the regular election. The

question shall be so framed that the voter may by his vote answer "for" or "against." If a majority of the votes cast upon the question oppose its passage, the order, resolution, or motion shall not go into effect. If a majority of the votes cast upon the question favor its passage, the order, resolution, or motion shall go into effect.

(b) If an election is necessary for a school district under the provisions of subsection (1) of this section, the district board of education may cause to be submitted to the voters of the district in a called common school election not less than twenty (20) days nor more than thirty (30) days from the date the signatures on the petition are validated by the county clerk, or at the next regular election, at the option of the district board of education, the question as to whether the property tax rate shall be levied. If the election is held in conjunction with a regular election, the question shall be submitted to the county clerk not later than the second Tuesday in August preceding the regular election. The question shall be so framed that the voter may by his vote answer "for" or "against." If a majority of the votes cast upon the question oppose its passage, the order, resolution, or motion shall not go into effect, and the property tax rate which will produce four percent (4%) more revenues from real property, exclusive of revenue from new property as defined in KRS 132.010, than the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be levied without further approval by the county fiscal court, district board of education, or legislative body of a city, ***consolidated local government,*** urban-county government, or other taxing district, as the case may be. If a majority of the votes cast upon the question favor its passage, the order, resolution, or motion shall go into effect. The cost of a called common school election shall be borne by the school district causing the election to be held.

(3) Notwithstanding any statutory provision to the contrary, if a city, county, school district, or other taxing district has not established a final tax rate as of September 15, due to the recall provisions of this section, KRS 68.245, 132.027, or 160.470, regular tax bills shall be prepared as required in KRS 133.220 for all districts having a tax rate established by that date; and a second set of bills shall be prepared and collected in the regular manner, according to the provisions of KRS Chapter 132, upon establishment of final tax rates by the remaining districts.

(4) If a second billing is necessary, the collection period shall be extended to conform with the second billing date.

(5) All costs associated with the second billing shall be paid by the taxing district or districts requiring the second billing.

Section 159. KRS 132.018 is amended to read as follows:

(1) If the tax rate applicable to real property levied by a county fiscal court, district board of education, or legislative body of a city, ***consolidated local government,*** urban-county government, or other taxing district is reduced as a result of reconsideration by the county fiscal court, district board of education, or legislative body of a city, ***consolidated local government,*** urban-county government, or other taxing district under the provisions of KRS 132.017(1)(b), the tax rate applicable to personal property levied under the provisions of KRS 68.248(1), 132.024(1), 132.029(1), and 160.473(1) shall be reduced by the respective county fiscal court, district board of education, or legislative body of a city, ***consolidated local government,*** urban-county government, or other taxing district to an amount which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property resulting from the reduced tax rate applicable to real property.

(2) If the tax rate applicable to real property levied by a county fiscal court, district board of education, or legislative body of a city, ***consolidated local government,*** urban-county government, or other taxing district is reduced, under the provisions of KRS 132.017(2)(b), as a result of a majority of votes cast in an election being opposed to such a rate, the tax rate applicable to personal property levied by the respective county fiscal court, district board of education, or legislative body of a city, ***consolidated local government,*** urban-county government, or other taxing district shall be reduced, without further action by the levying body, to an amount which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property resulting from the reduced tax rate applicable to real property.

Section 160. KRS 132.023 is amended to read as follows:

(1) No taxing district, other than the state, counties, school districts, cities, ***consolidated local governments,*** and urban-county governments, shall levy a tax rate which exceeds the compensating tax rate defined in KRS 132.010, until the taxing district has complied with the provisions of subsection (2) of this section.

(2) (a) A taxing district, other than the state, counties, school districts, cities, ***consolidated local governments,*** and urban-county governments, proposing to levy a tax rate which exceeds the compensating tax rate defined in KRS 132.010, shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The taxing district shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;
2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;

3. The compensating tax rate and the revenue expected from it;
4. The revenue expected from new property and personal property;
5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;
6. A time and place for the public hearing which shall be held not less than seven (7) days, nor more than ten (10) days, after the day that the second advertisement is published;
7. The purpose of the hearing; and
8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained therein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property in the taxing district, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The taxing district may set reasonable time limits for testimony.

(3) (a) That portion of a tax rate levied by an action of a tax district, other than the state, counties, school districts, cities, ***consolidated local governments,*** and urban-county governments which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 shall be subject to a recall vote or reconsideration by the taxing district, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The taxing district, other than the state, counties, school districts, cities, ***consolidated local governments,*** and urban-county governments shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a tax rate which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the taxing district has adopted a rate;
2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and
3. The name, address, and telephone number of the county clerk of the county in which the taxing district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

Section 161. KRS 132.275 is amended to read as follows:

Each gas, water, electric light and telephone company operating in a county containing a city of the first class ***or consolidated local government*** shall furnish to the property valuation administrator a list showing the names and addresses of all persons, firms, or corporations receiving service from such utilities, and thereafter on every Monday, said utility companies shall furnish to said property valuation administrator a report containing the names of all persons, firms, or corporations who have, during the week immediately preceding, ordered gas, water, electric light or telephone service to be installed, removed or discontinued, with the addresses at which the services were ordered to be installed, removed or discontinued. Such information shall be treated as confidential and shall be used by said property valuation administrator only for the purpose of making accurate records; Provided, however, That said property valuation administrator shall permit the city assessor of said city of the first class ***or consolidated local government*** and any other taxing bodies of the various governments to examine said records for official purposes only, and said units of government shall treat said information as confidential.

Section 162. KRS 132.400 is amended to read as follows:

Before entering upon the duties of office, the property valuation administrator shall execute a bond conditioned upon the faithful performance of the duties of the office with a surety to be approved by the Revenue Cabinet. In counties containing a city of the first class ***or consolidated local government***, the bond shall be in the sum of one hundred thousand dollars ($100,000); in counties containing a city of the second class, fifty thousand dollars ($50,000); in all other counties, twenty thousand dollars ($20,000).

Section 163. KRS 132.590 is amended to read as follows:

(1) The compensation of the property valuation administrator shall be based on the schedule contained in subsection (2) of this section as modified by subsection (3) of this section. The compensation of the property valuation administrator shall be calculated by the Revenue Cabinet annually. Should a property valuation administrator for any reason vacate the office in any year during his term of office, he shall be paid only for the calendar days actually served during the year.

(2) The salary schedule for property valuation administrators provides for nine (9) levels of salary based upon the population of the county in the prior year as determined by the United States Department of Commerce, Bureau of the Census annual

estimates. To implement the salary schedule, the cabinet shall, by November 1 of each year, certify for each county the population group applicable to each county based on the most recent estimates of the United States Department of Commerce, Bureau of the Census. The salary schedule provides four (4) steps for yearly increments within each population group. Property valuation administrators shall be paid according to the first step within their population group for the first year or portion thereof they serve in office. Thereafter, each property valuation administrator, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. If the county population as certified by the cabinet increases to a new group level, the property valuation administrator's salary shall be computed from the new group level at the beginning of the next year. A change in group level shall have no affect on the annual change in step. Prior to assuming office, any person who has previously served as a property valuation administrator must certify to the Revenue Cabinet the total number of years, not to exceed four (4) years, that the person has previously served in the office. The cabinet shall place the person in the proper step based upon a formula of one (1) incremental step per full calendar year of service:

SALARY SCHEDULE

County Population by Group	Steps and Salary for Property Valuation Administrators			
Group I	Step 1	Step 2	Step 3	Step 4
0-4,999	$45,387	$46,762	$48,137	$49,513
Group II				
5,000-9,999	49,513	50,888	52,263	53,639
Group III				
10,000-19,999	53,639	55,014	56,389	57,765
Group IV				
20,000-29,999	55,702	57,765	59,828	61,891
Group V				
30,000-44,999	59,828	61,891	63,954	66,017
Group VI				
45,000-59,999	61,891	64,641	67,392	70,143
Group VII				
60,000-89,999	66,017	68,768	71,518	74,269
Group VIII				
90,000-499,999	68,080	71,518	74,957	78,395
Group IX				
500,000 and up	72,206	75,644	79,083	82,521

(3) (a) For calendar year 2000, the salary schedule in subsection (2) of this section shall be increased by the amount of increase in the annual consumer price index as published by the United States Department of Commerce for the year ended December 31, 1999. This salary adjustment shall take effect on July 14, 2000, and shall not be retroactive to the preceding January 1.

(b) For each calendar year beginning after December 31, 2000, upon publication of the annual consumer price index by the United States Department of Commerce, the annual rate of salary for the property valuation administrator shall be determined by applying the increase in the consumer price index to the salary in effect for the previous year. This salary determination shall be retroactive to the preceding January 1.

(c) In addition to the step increases based on service in office, each property valuation administrator shall be paid an increase of six hundred eighty-seven dollars and sixty-seven cents ($687.67) for each forty (40) hour training unit successfully completed. This amount shall be increased by the consumer price index adjustments prescribed in paragraphs (a) and (b) of this subsection. Each training unit shall be approved and certified by the Kentucky Revenue Cabinet. Each unit shall be available to property valuation administrators in each office based on continuing service in that office.

(4) Notwithstanding any provision contained in this section, no property valuation administrator holding office on July 14, 2000, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on July 14, 2000.

(5) Deputy property valuation administrators and other authorized personnel may be advanced one (1) step in grade upon completion of twelve (12) months' continuous service. The Revenue Cabinet may make grade classification changes corresponding to any approved for cabinet employees in comparable positions, so long as the changes do not violate the integrity of the classification system. Subject to availability of funds, the cabinet may extend cost-of-living increases approved for cabinet employees to deputy property valuation administrators and other authorized personnel, by

advancement in grade.

(6) Beginning with the 1990-1992 biennium, the Revenue Cabinet shall prepare a biennial budget request for the staffing of property valuation administrators' offices. An equitable allocation of employee positions to each property valuation administrator's office in the state shall be made on the basis of comparative assessment work units. Assessment work units shall be determined from the most current objective information available from the United States Bureau of the Census and other similar sources of unbiased information. Beginning with the 1996-1998 biennium, assessment work units shall be based on parcel count per employee. The total sum allowed by the state to any property valuation administrator's office as compensation for deputies, other authorized personnel, and for other authorized expenditures shall not exceed the amount fixed by the Revenue Cabinet. However, each property valuation administrator's office shall be allowed as a minimum such funds that are required to meet the federal minimum wage requirements for two (2) full-time deputies.

(7) Beginning with the 1990-1992 biennium each property valuation administrator shall submit by June 1 of each year for the following fiscal year to the Revenue Cabinet a budget request for his office which shall be based upon the number of employee positions allocated to his office under subsection (6) of this section and upon the county and city funds available to his office and show the amount to be expended for deputy and other authorized personnel including employer's share of FICA and state retirement, and other authorized expenses of the office. The Revenue Cabinet shall return to each property valuation administrator, no later than July 1, an approved budget for the fiscal year.

(8) Each property valuation administrator may appoint any persons approved by the Revenue Cabinet to assist him in the discharge of his duties. Each deputy shall be more than twenty-one (21) years of age and may be removed at the pleasure of the property valuation administrator. The salaries of deputies and other authorized personnel shall be fixed by the property valuation administrator in accordance with the grade classification system established by the Revenue Cabinet and shall be subject to the approval of the Revenue Cabinet. The Personnel Cabinet shall provide advice and technical assistance to the Revenue Cabinet in the revision and updating of the personnel classification system, which shall be equitable in all respects to the personnel classification systems maintained for other state employees. Any deputy property valuation administrator employed or promoted to a higher position may be examined by the Revenue Cabinet in accordance with standards of the Personnel Cabinet, for the position to which he is being appointed or promoted. No state funds available to any property valuation administrator's office as compensation for deputies and other authorized personnel or for other authorized expenditures shall be paid without authorization of the Revenue Cabinet prior to the employment by the property valuation administrator of deputies or other authorized personnel or the incurring of other authorized expenditures.

(9) Each county fiscal court shall annually appropriate and pay each fiscal year to the office of the property valuation administrator as its cost for use of the assessment, as required by KRS 132.280, an amount determined as follows:

Assessment Subject to County Tax of:		
At Least	But Less Than	Amount
----	$100,000,000	$0.005 for each $100 of the first $50,000,000 and $0.002 for each $100 over $50,000,000.
$100,000,000	150,000,000	$0.004 for each $100 of the first $100,000,000 and $0.002 for each $100 over $100,000,000.
150,000,000	300,000,000	$0.004 for each $100 of the first $150,000,000 and $0.003 for each $100 over $150,000,000.
300,000,000	----	$0.004 for each $100.

(10) The total sum to be paid by the fiscal court to any property valuation administrator's office under the provisions of subsection (9) of this section shall not exceed the limits set forth in the following table:

Assessed Value of Property Subject to County Tax of:		
At Least	But Less Than	Limit
----	$700,000,000	$25,000
$700,000,000	1,000,000,000	35,000
1,000,000,000	2,000,000,000	50,000
2,000,000,000	2,500,000,000	75,000
2,500,000,000	5,000,000,000	100,000
5,000,000,000	-----	175,000

This allowance shall be based on the assessment as of the previous January 1 and shall be used for deputy and other personnel allowance, supplies, maps and equipment, travel allowance for the property valuation administrator and his deputies and other authorized personnel, and other authorized expenses of the office.

(11) Annually, after appropriation by the county of funds required of it by subsection (9) of this section, and no later than August 1, the property valuation administrator shall file a claim with the county for that amount of the appropriation specified in his approved budget for compensation of deputies and assistants, including employer's shares of FICA and state retirement, for the fiscal year. The amount so requested shall be paid by the county into the State Treasury by September 1, or paid to the property valuation administrator and be submitted to the State Treasury by September 1. These funds shall be expended by the Revenue Cabinet only for compensation of approved deputies and assistants and the employer's share of FICA and state retirement in the appropriating county.. Any funds paid into the State Treasury in accordance with this provision but unexpended by the close of the fiscal year for which they were appropriated shall be returned to the county from which they were received.

(12) After submission to the State Treasury or to the property valuation administrator of the county funds budgeted for personnel compensation under subsection (11) of this section, the fiscal court shall pay the remainder of the county appropriation to the office of the property valuation administrator on a quarterly basis. Four (4) equal payments shall be made on or before September 1, December 1, March 1, and June 1 respectively. Any unexpended county funds at the close of each fiscal year shall be retained by the property valuation administrator, except as provided in KRS 132.601(2). During county election years the property valuation administrator shall not expend in excess of forty percent (40%) of the allowances available to his office from county funds during the first five (5) months of the fiscal year in which the general election is held.

(13) The provisions of this section shall apply to urban-county governments ***and consolidated local governments***. In an urban-county government ***and a consolidated local government***, all the rights and obligations conferred on fiscal courts ***or consolidated local governments*** by the provisions of this section shall be exercised by the urban-county government ***or consolidated local government***.

(14) When an urban-county form of government is established through merger of existing city and county governments as provided in KRS Chapter 67A ***or when a consolidated local government is established through merger of existing city and county governments as provided by KRS Chapter 67C***, the annual county assessment shall be presumed to have been adopted as if the city had exercised the option to adopt as provided in KRS 132.285, and the annual amount to be appropriated to the property valuation administrator's office shall be the combined amount that is required of the county under this section and that required of the city under KRS 132.285, except that the total shall not exceed one hundred thousand dollars ($100,000) for any urban-county government ***or consolidated local government*** with an assessment subject to countywide tax of less than three billion dollars ($3,000,000,000), one hundred twenty-five thousand dollars ($125,000) for an urban-county government ***or consolidated local government*** with an assessment subject to countywide tax between three billion dollars ($3,000,000,000) and five billion dollars ($5,000,000,000), and two hundred thousand dollars ($200,000) for an urban-county government ***or consolidated local government*** with an assessment subject to countywide tax in excess of five billion dollars ($5,000,000,000). For purposes of this subsection, the amount to be considered as the assessment for purposes of KRS 132.285 shall be the amount subject to taxation for full urban services.

(15) Notwithstanding the provisions of subsection (9) of this section, the amount appropriated and paid by each county fiscal court to the office of the property valuation administrator for 1996 and subsequent years shall be equal to the amount paid to the office of the property valuation administrator for 1995, or the amount required by the provisions of subsections (9) and (10) of this section, whichever is greater.

Section 164. KRS 132.635 is amended to read as follows:

The provisions of KRS 132.590 and 132.630 shall apply to urban-county governments ***and consolidated local governments***. In an urban-county government ***and in a consolidated local government***, all the rights and obligations conferred on fiscal courts by the provisions of KRS 132.590 and 132.630, shall be exercised by the urban-county government ***or consolidated local government, as the case may be***.

Section 165. KRS 133.240 is amended to read as follows:

(1) The county clerk shall be allowed thirty cents ($0.30) for calculating the state, county and school tax and preparing a tax

bill for each individual taxpayer for the sheriff or collector under the provisions of KRS 133.220, and one dollar ($1) for each tax bill made in case of an omitted assessment.

(2) The county clerk shall present his account to the fiscal court, verified by his affidavit, together with his receipt from the sheriff for the tax bills and his receipt from the Revenue Cabinet for the recapitulation sheets. If found correct, the court shall allow the account, and order one-half (1/2) of it paid out of the[~~ county~~] levy and the other one-half (1/2) out of the State Treasury. The county clerk shall certify the allowance to the Finance and Administration Cabinet, which shall draw a warrant on the State Treasurer in favor of the county clerk for the state's one-half (1/2).

(3) The above county allowance shall likewise be paid to the county clerk for calculation of the state, county, city, ***consolidated local government,*** urban-county government, ***and*** school and special district tax for each individual motor vehicle taxpayer, based upon certification from the Revenue Cabinet of the number of accounts as of January 1 each year.

Section 166. KRS 134.140 is amended to read as follows:

(1) The sheriff, by virtue of his office, shall be collector of all state, county***, consolidated local government,*** and district taxes, unless the payment thereof is, by law, especially directed to be made to some other officer. Where provision is not otherwise made for the collection of taxes, the assessment or proportion thereof allocable to a local taxing district shall be certified to the clerk of the court of the county ***or the clerk of the consolidated local government*** which constitutes or in which such taxing district is located, for collection as provided by law.

(2) The sheriff shall not receive or receipt for any taxes until the tax bills have been delivered to him by the county clerk, as provided in KRS 133.220 and 133.230.

(3) (a) The sheriff, except in urban-county governments, may, and at the direction of the fiscal court ***or a consolidated local government*** shall, invest any tax revenues held in his possession from the time of collection until the time of distribution to the proper taxing authorities pursuant to KRS 134.300, 134.320 and 160.510. Investments by the sheriff shall be restricted to those permitted by KRS 66.480.

(b) At the time of his monthly distribution of taxes to the district board of education, the sheriff shall pay to the board of education that part of his investment earnings for the month which is attributable to the investment of school taxes, but this subsection shall not be construed to prohibit the sheriff from obtaining his expenses not to exceed the rate of four percent (4%) of the earned monthly investment income for the administration of this investment fund.

(c) In those counties where the sheriff pays his fees and commissions to the county and the salaries and expenses of his office are paid by the county, the sheriff shall pay to the county treasurer the investment earnings, other than those paid to the board of education in compliance with subsection (3)(b) of this section, at the time of his monthly distribution of taxes to the county.

(d) In those counties where the office of sheriff is funded in whole or in part by fees and commissions, the sheriff may use investment earnings, other than those which must be paid to the board of education in compliance with subsection (3)(b) of this section, to pay lawful expenses of his office, and the remainder shall be paid to the fiscal court ***or a consolidated local government*** at the time of the sheriff's annual settlement for county***, consolidated local government,*** and district taxes and excess fees.

Section 167. KRS 134.380 is amended to read as follows:

(1) The secretary may act in the name of and in behalf of the state and in the name of and in behalf of any and all counties, ***consolidated local government,*** school, and other taxing districts in the state to institute and prosecute any action or proceeding for the collection of delinquent taxes and the assessment of omitted property. If the cabinet assumes the duties of collecting the delinquent taxes assessed under the authority of KRS Chapter 132, it shall have all the powers, rights, duties, and authority conferred generally upon the cabinet by the Kentucky Revised Statutes, including, but not limited to, Chapters 131, 134, and 135.

(2) Field agents, accountants, and attorneys of the cabinet shall prosecute all actions and proceedings under the direction of the secretary. Field agents, accountants, attorneys, and all other employees of the cabinet engaged in the prosecution of the actions shall not be hired by personal service contract. The secretary shall prosecute diligently, or cause to be prosecuted by field agents, accountants, and attorneys employed by him, the collection of all delinquent taxes due the state.

(3) Nothing contained in this chapter shall prevent the secretary of revenue from assessing any property in accordance with the provisions of KRS 136.020, 136.030, or 136.050, or KRS 136.120 to 136.180.

(4) The cabinet may require the use of any reports, forms, or databases necessary to administer the law in connection with the collection of delinquent taxes. The cabinet shall require an index to be kept of all certificates of delinquency.

Section 168. KRS 134.590 is amended to read as follows:

(1) When it appears to the appropriate agency of state government that money has been paid into the State Treasury for ad valorem taxes when no taxes were in fact due or for taxes of any kind paid under a statute held unconstitutional, the agency of state government which administers the tax shall refund the money, or cause it to be refunded, to the person who paid the tax. No refund or credit shall be authorized to a person who has made payment of the tax due on any tract of land unless the entire tax due the state on the land has been paid.

(2) No refund shall be made unless an application for refund is made within two (2) years from the time payment was made. No refund for ad valorem taxes, except those held unconstitutional, shall be made unless the taxpayer has properly followed the administrative remedy procedures established through the protest provisions of KRS 131.110, the appeal provisions of KRS 133.120, the correction provisions of KRS 133.110 and 133.130, or other administrative remedy procedures.

(3) When it has been determined that city, urban-county, county, school district, ***consolidated local government,*** or special district ad valorem taxes have been paid to a city, urban-county, county, school district, ***consolidated local government,*** or special district when no taxes were due or the amount paid was in excess of the amount finally determined to be due, the taxes shall be refunded to the person who paid the tax.

(4) Refunds of ad valorem taxes shall be authorized by the mayor or chief finance officer of any city***, consolidated local government,*** or urban-county government for the city***, consolidated local government,*** or urban-county government or for any special district for which the city***, consolidated local government,*** or urban-county government is the levying authority, by the county judge/executive of any county for the county or special district for which the fiscal court is the levying authority, or by the chairman or finance officer of any district board of education.

(5) Upon proper authorization, the sheriff or collector shall refund the taxes from current tax collections held by the sheriff or collector. If there are no such funds, refunds shall be made by the finance officer of the district. The sheriff or collector shall receive credit for any refunds made by the sheriff or collector on the next collection report to the district.

(6) No refund shall be made unless an application is made within two (2) years from the date payment was made. If the amount of taxes due is in litigation, the application for refund shall be made within two (2) years from the date the amount due is finally determined. No refund for ad valorem taxes, except those held unconstitutional, shall be made unless the taxpayer has properly followed the administrative remedy procedures established through the protest provisions of KRS 131.110, the appeal provisions of KRS 133.120, the correction provisions of KRS 133.110 and 133.130, or other administrative remedy procedures.

(7) Notwithstanding other statutory provisions, for property subject to a tax rate that is set each year based on the certified assessment, any loss of ad valorem tax revenue suffered by a taxing district due to the issuance of refunds may be recovered by making an adjustment in the tax rate for the following tax year.

Section 169. KRS 153.440 is amended to read as follows:

In addition to the three percent (3%) transient room tax authorized by KRS 91A.390, fiscal courts in counties containing cities of the first class ***or consolidated local governments*** may levy an additional transient room tax not to exceed one percent (1%) of the rent for every occupancy of a suite, room or rooms, charged by all persons, companies, corporations or other like or similar persons, groups or organizations doing business as motor courts, motels, hotels, inns or like or similar accommodations' businesses. All moneys collected from the tax authorized by this section shall be turned over to the Kentucky Center for the Arts Corporation, and shall be used to defray operating costs of the Kentucky Center for the Arts.

Section 170. KRS 153.460 is amended to read as follows:

(1) As used in this section:

(a) "Multipurpose arena" means a facility whose principal use includes, but is not limited to, the exhibition of collegiate basketball competition;

(b) "Restaurant" means any facility operated for profit which has minimum seating capacity of fifty (50) people at tables and which receives at least fifty percent (50%) of its gross annual income from the sale of food.

(2) Fiscal courts in counties containing cities of the first class ***or consolidated local governments*** may levy:

(a) A ten percent (10%) surcharge on all tickets sold by a multipurpose arena located in the county and constructed after April 9, 1980; and

(b) A one-fourth of one percent (0.25%) tax on gross receipts from the sale of food and beverages of all restaurants located in the county.

(3) All moneys collected from the surcharge on tickets and the restaurant tax shall be placed in a fund to be used to defray operating expenses of any such multipurpose arena.

Section 171. KRS 161.710 is amended to read as follows:

(1) The local retirement systems merged with the state retirement system under the provisions of Acts 1938 (1st Ex. Sess.), Ch. 1, 49, shall be discontinued. The payment of all benefits to members on the retired roll at the time of discontinuance shall become the obligation of the school district in which the local system was operated prior to its discontinuance. The method of determining and paying refundable deposits due members of the local system shall be as provided in Acts 1938 (1st Ex. Sess.), Ch. 1, 49.

(2) Payments to annuitants in cities of the first class ***or in areas formerly constituting a city of the first class which have been consolidated with their county*** shall not exceed the amount being received by them at the time the local retirement system is discontinued. The sum that remains after the death of all annuitants shall be used by the local board of education for general school purposes.

(3) The local board of education shall continue to invest the funds transferred to it for the benefit of the existing annuitants as

long as such annuitants live. Such investment shall be governed by Acts 1934, Ch. 65, Art. IX, except that the local board of education is substituted for the board of trustees of the local retirement system. The local board of education shall keep all funds transferred to it by the local retirement system and all income from the investment of such funds in a separate fund to be known as the annuity fund. The local board of education may pay from the fund any reasonable expenses necessary for the fund's administration and general management. The local board of education shall safeguard the fund by requiring such additional surety bond of the treasurer as it deems necessary, by providing for an annual audit by a reputable auditing firm, by spreading on the minutes of the board of education at least annually a report of investments, assets, and liabilities, and the names, addresses, and annuities of annuitants, and by making such an appropriation to the fund from local school revenues as will guarantee the full and complete discharge of all obligations to annuitants.

Section 172. KRS 162.300 is amended to read as follows:

County boards of education and boards of education of independent districts not embracing a city of any class may obtain buildings for school purposes by proceeding under the provisions of KRS 162.120 to 162.290. When applied to such boards of education, KRS 162.120 to 162.290 shall be so read that the term:

(1) "City" means "county"***, including a county containing a consolidated local government,*** or "urban-county," as the case may be;

(2) "City clerk" means "county clerk" or the appropriate record keeping officer in an urban-county government ***or a consolidated local government***;

(3) "Governing body of the city" means "fiscal court" or the governing body of an urban-county government ***or a consolidated local government***, as the case may be;

(4) "Mayor" means "county judge/executive" or "chief executive officer of the urban-county government," as the case may be;

(5) "Ordinance" means either "ordinance" or "resolution."

Section 173. KRS 172.200 is amended to read as follows:

(1) Upon the adoption of this optional plan, in counties other than those containing a city of the first class ***or consolidated local government***, the Circuit Judge shall appoint one (1) member of the county's bar, and the members of the county's bar shall, by majority vote, elect another of their number, which two (2) attorneys shall, with the county attorney of the county, constitute and be designated as "Trustees, ... County Law Library." In counties containing a city of the first class ***or consolidated local government***, the Chief Circuit Judge shall appoint one (1) member of the county's bar; the members of the county's bar shall, by majority vote, elect another of their number; the fiscal court ***or consolidated local government*** shall appoint one (1) member***,*** and one (1) member shall be appointed by the Commonwealth's attorney, which four (4) attorneys shall, with the county attorney of the county, constitute and be designated as "Trustees, ... County Law Library ***"or in a county containing a consolidated local government, "Trustees, .../.........County Law Library," which shall be a combination of the names of the largest city in existence on the date of the approval of the consolidated local government and the county***.~~["]~~

(2) The trustees shall serve for a term of two (2) years or until their successors are elected or qualified.

(3) The trustees shall be in charge of the county law library, and they shall make purchases of the various state and federal case reports, textbooks, legal encyclopedia, and all other books usually incident to or customarily found in law libraries, or necessary to the protection of the rights of litigants, and they shall cause same to be properly arranged in the county law library, directing the ex officio librarian in the exercise of his duties.

(4) The trustees shall exercise their absolute discretion in the purchase of books, pamphlets, periodicals, and other materials, and in the appointment and compensation of personnel to assist the ex officio librarian in the handling of materials and in the maintenance of the library, but the trustees shall not contract for any such purchases and appointments so as to create an indebtedness greater than the anticipated revenue for the following eighteen (18) months, the anticipated revenue being based upon the preceding eighteen (18) months' revenue, and any indebtedness of the county law library fund shall not be considered in any way an indebtedness of the county, but shall be an indebtedness of the county law library fund only, and all creditors must look only to the county law library fund for satisfaction of their indebtedness.

(5) The trustees shall designate one (1) of their number as treasurer and he shall be accountable for the receipt, deposit, and disbursement of all sums received for the operation of the county law library. He shall be bonded by a corporate bond, the cost of which shall be paid out of the receipts of the library fund. He shall deposit all sums received by him as treasurer in a regular banking depository, and he shall pay for all purchases made by the trustees by check or draft, keeping a true and accurate account of all sums received and expended by him. He shall annually file a written report with the Circuit Judge of the county showing all sums received by him, together with the court from which they were received, and an itemized statement of all expenditures made by him. The treasurer shall turn all funds over to his successor, together with a full inventory of the county law library, and together with a full and complete itemized statement of all outstanding accounts.

Section 174. KRS 173.105 is amended to read as follows:

(1) The fiscal court of any county containing a population of over two hundred thousand (200,000) and a city of the first class, may contract with the board of trustees of the free public library of any such city for the purpose of granting to the residents and schools of such county the same privileges afforded by such library to residents and schools in the city.

(2) Notwithstanding any provisions of Kentucky Revised Statutes to the contrary, when the fiscal court of any county containing a population of over two hundred thousand (200,000) and a city of the first class have in effect a compact under KRS 79.310 to 79.330, the city and county shall by joint action create a joint city/county department for the purpose of providing a free public library. In such event, the board of trustees shall be dissolved as a corporate entity and all assets and liabilities of the board of trustees shall be transferred to the joint department. An advisory board may be established by joint agreement of such city and county. ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing that city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the joint department shall become a department of the consolidated local government and all assets and liabilities of the joint department shall be transferred to the consolidated local government. An advisory board may be established or maintained by a consolidated local government. Members of the advisory board shall be appointed and shall serve at the pleasure of the mayor of the consolidated local government.***

(3) If the fiscal court enters into a contract pursuant to subsection (1) of this section, then the county judge/executive shall have the authority to appoint one-half (1/2) of the positions on the board of trustees of the free public library. Appointments shall be made for four (4) year terms. Each appointee must be at the time of his ***or her*** appointment a taxpayer and qualified voter in the county.

(4) The county judge/executive shall make the appointments authorized by subsection (3) of this section in the following manner. On March 31 of 1978 and March 31 of 1980, he ***or she*** shall appoint persons to fill two (2) of the vacancies which occur. On March 31 of 1979 and March 31 of 1981, he ***or she*** shall appoint a person to fill one (1) vacancy which occurs. He ***or she*** shall continue to make the appointments to these positions when a vacancy occurs or a term expires, subject to subsection (5) of this section.

(5) If the contract between the fiscal court and a free public library terminates or ceases to be in effect, the county judge/executive shall no longer have the authority to appoint persons as trustees to the board of the free public library and the mayor may terminate the appointment of trustees appointed by the county judge/executive and appoint persons to fill their unexpired terms.

(6) The fiscal court may annually appropriate money out of the county treasury to the maintenance and support of the library.

(7) Money so appropriated by the fiscal court may be expended by the board of trustees of the free public library in the establishment of branch stations in the county outside the city of the first class, under regulations of the board of trustees.

Section 175. KRS 173.106 is amended to read as follows:

In a county where the county and a city of the first class have in effect a compact under KRS 79.310 to 79.330 and have created a joint city/county library department, the county clerk, when he ***or she*** receives an application for vehicle registration pursuant to KRS 186.030, shall present the person making the application an opportunity to make a voluntary contribution for the support of the free public library. If the applicant chooses to donate to the library, he or she shall include the donation in the fee. The clerk shall pay the donations to the library department in the same fashion as taxes are paid pursuant to KRS 134.815 and shall be entitled to the same commission as that payable on county taxes pursuant to KRS 134.805. ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing that city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, and have created a joint city/county library department, the county clerk shall continue the procedure by which persons may make voluntary contributions for the support of the free public library. The donations shall be transferred to the consolidated local government for the maintenance of the library department in the same manner as moneys are transferred pursuant to KRS 134.815 and the county clerk shall be entitled to the same commission as that payable on taxes pursuant to KRS 134.805.***

Section 176. KRS 173.107 is amended to read as follows:

Any library established or maintained pursuant to the provisions of KRS 173.310 to 173.410 shall not, upon becoming a city of the first class***, or a consolidated local government***, or a county containing a city of the first class, have its tax levy or appropriation decreased except by the procedure in KRS 173.790.

Section 177. KRS 173.860 is amended to read as follows:

There is hereby created the urban libraries fund for distribution to free public libraries in counties containing cities of the first or second class, urban-county governments***, consolidated local governments,*** or any county in which there are no incorporated areas pursuant to the provisions of KRS 173.870. The fund shall consist of such sums as are appropriated by the General Assembly, and any grants, gifts, legacies, devises or other funds or property from any available source, public or private. The receipt, control and expenditure of funds shall be subject to the general provisions of KRS Chapters 41 to 47, governing financial administration of state agencies.

Section 178. KRS 177.9771 is amended to read as follows:

(1) The "extended weight coal or coal by-products haul road system" shall consist of all state-maintained toll roads or state-maintained roads which were previously toll roads and the public highways over which quantities of coal or coal by-products in excess of fifty thousand (50,000) tons were transported by motor vehicles during the period from January 1, 1985, through December 31, 1985, and shall be updated annually thereafter.

(2) The secretary of the Transportation Cabinet shall by official order on or before November 1, of each year, certify such public highways or portions thereof, as fulfill the criteria in subsection (1) of this section, as the extended weight coal or

coal by-products haul road system.

(3) The total tons of coal or coal by-products transported by motor vehicles over any public highway shall be determined from the official coal or coal by-products road system transportation report required pursuant to KRS 177.977.

(4) Any vehicle, when registered with a declared gross weight of eighty thousand (80,000) pounds and when transporting coal or coal by-products over public highways which are part of the extended weight coal or coal by-products haul road system or portions thereof, may be operated at the weights as set forth below in excess of the maximum gross weight prescribed in KRS 189.221 and 189.222 and any other maximum weight limitations on state or county maintained systems by paying the corresponding decal fee as set forth below:

(a) A single unit truck having one (1) steering axle and two (2) axles in tandem shall be limited to a maximum gross weight of ninety thousand (90,000) pounds with a tolerance of five percent (5%), and pay a decal fee of one hundred sixty dollars ($160) annually;

(b) A single unit truck having one (1) steering axle and three (3) axles in tridem arrangement shall be limited to a maximum gross weight of one hundred thousand (100,000) pounds with a tolerance of five percent (5%), and pay a decal fee of two hundred sixty dollars ($260) annually;

(c) Tractor-semitrailer combinations with five (5) or more axles shall be limited to a maximum gross weight of one hundred twenty thousand (120,000) pounds with a tolerance of five percent (5%), and pay a decal fee of three hundred sixty dollars ($360) annually;

(d) Any motor carrier involved in the transportation of coal or coal by-products which meets gross axle weights of twenty thousand (20,000) pounds per axle and twelve thousand (12,000) pounds for the steering axle may register in excess of eighty thousand (80,000) pounds by payment of eight hundred forty dollars ($840) plus an additional decal fee of ten dollars ($10) per one thousand (1,000) pounds of registered weight above eighty thousand (80,000) pounds;

(e) For purposes of this section, KRS 177.979, and 189.230, and for purposes of the extended weight coal or coal by-products haul system, the dimensional requirements of motor vehicles shall conform to all appropriate federal laws and regulations;

(f) The payment of the decal fee shall be in addition to any state registration fee, user fee or other decal fee, including the registration fee as specified in KRS 186.050(3);

(g) Motor vehicles used in the transportation of coal or coal by-products under cooperative agreements pursuant to KRS 177.979 shall be exempt from the payment of the decal fee as set forth in this section and the registration fee as set forth in KRS 186.050(3) as long as the truck is driven over cooperative roads only while full. The Transportation Cabinet shall issue identifying license plates for those motor vehicles under cooperative agreements;

(h) All fees under this section shall be scheduled for payment and prorated pursuant to the provisions of KRS 186.051; and

(i) All revenues generated pursuant to this section shall be credited to a special account within the road fund called the "energy recovery road fund."

(5) Sixty percent (60%) of all energy recovery road funds shall be used by the Department of Highways for construction, maintenance, and repair of the state-maintained portion of the extended weight coal or coal by-products haul road system.

(6) Forty percent (40%) of all energy recovery road funds shall be distributed to the fiscal court of those counties in which coal or coal by-products are transported for the sole purpose of construction, maintenance and repair of the county-maintained portion of the extended weight coal or coal by-products haul system. The distribution of funds to the counties shall be proportioned based on the miles of county roads on the extended weight coal or coal by-products haul system in each county compared to the total mileage of county roads in the total extended weight coal or coal by-products haul road system and the tons of coal or coal by-products transported over county roads on the extended weight coal or coal by-products haul system in each county compared to the total tons of coal or coal by-products transported over county roads in the total extended weight coal or coal by-products haul road system.

(7) Nothing in this section shall be construed or administered to jeopardize the receipt of federal funds for highway purposes and the secretary of transportation shall not act in any manner which shall jeopardize federal highway funds or funds to be received by the Commonwealth. This section shall not be construed to authorize any vehicle to operate on a federal interstate highway in excess of those limits prescribed in KRS 189.222. This section shall not be construed to prohibit the Department of Highways from providing for the public safety and convenience of the traveling public on the highway.

(8) As soon as practical after the report is prepared and published pursuant to KRS 177.977 for any calendar year after 1985, the secretary shall add to or delete from the extended weight coal or coal by-products haul road system public highways or portions thereof based upon the criteria set out in this section. Deletion of a public road or portion of it from the extended weight coal or coal by-products haul road system shall not affect the eligibility of the roads for highway funds or programs applicable to the extended weight coal or coal by-products haul road system.

(9) A fiscal court***,***~~[or]~~ a governing body of a city of the first through fourth class***, consolidated local government,*** or urban-county government may by resolution, make recommendation to the secretary of the Transportation Cabinet that certain

roads or road segments in the county or corporate city limits pose inherent and definite hazards, special conditions, or greatly impact the economy of the county or city and that the secretary shall meet with said fiscal court or local governing body and take into consideration their concerns before adding to or deleting from the extended weight coal or coal by-products haul system.

(10) The secretary of the Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A necessary to administer the provisions of this section, KRS 177.9772, 177.979, and 189.230.

Section 179. KRS 178.020 is amended to read as follows:

Every county road, bridge and landing, and every city street and alley heretofore lawfully established and opened and not lawfully discontinued or vacated shall continue as such, until properly discontinued. Every road, street and alley, used and occupied as a public road, street or alley, shall be presumed to be a public road, street or alley, as the case may be. Nothing in this section shall be interpreted as interfering with the right of the fiscal court of a county containing a city of the first class ***or a consolidated local government*** from detaching a road or a portion thereof from the county through road system.

Section 180. KRS 178.040 is amended to read as follows:

(1) In order to change the width of a county road, the fiscal court ***or a consolidated local government*** shall make a special order for a different width. The order shall be recorded in the office of the county clerk. In order to change the width of the right-of-way of a portion of a county through road system the fiscal court of a county containing a city of the first class ***or a consolidated local government*** may make a special order for a different width. The order shall be recorded in the office of the county road engineer.

(2) All county roads hereafter established shall occupy a right-of-way not less than thirty (30) feet wide, but the fiscal court ***or a consolidated local government*** may order it to be a greater width. All roads added to the county through road system in a county containing a city of the first class ***or a consolidated local government*** in accordance with KRS 178.333 shall occupy a right-of-way width as ordered by the fiscal court ***or the consolidated local government***.

(3) In acquiring a right-of-way for a county through road within any city, the fiscal court or the county court of a county containing a city of the first class ***or the consolidated local government*** may exercise any powers granted them by statute for the acquisition of property.

Section 181. KRS 178.117 is amended to read as follows:

(1) Any person or corporation, public or private, or any group of such persons or corporations or both residing in or owning property adjacent to any publicly dedicated road in unincorporated territory in a county containing a city of the first class ***or consolidated local government*** desiring to make any improvements to the publicly dedicated road shall submit to the fiscal court ***or the consolidated local government*** for approval plans and specifications for its improvements at their own expense. Any such request for private improvement shall include all the information required by KRS 184.020 to accompany a request for the creation of a public road district pursuant to that section.

(2) The sponsors of the private improvement of the publicly dedicated road shall present their request, together with the attached maps and estimates of cost, to the fiscal court ***or the consolidated local government***, who shall turn over to the county engineer for his consideration the maps and estimates of cost. In considering whether to permit the requested improvement, the fiscal court***, or the consolidated local government,*** and the county engineer shall follow the same procedures provided for in KRS 184.040 and the same appellate rights provided for in these sections are available to the petitioners. When the county engineer receives from the fiscal court ***or the consolidated local government*** an application for approval of plans or specifications for the private improvement of publicly dedicated roads by some individual or corporation, or a combination thereof, the county engineer shall be authorized and empowered to examine, inspect and investigate, as seems to be advisable, the sufficiency of the improvements which the application seeks to serve the purposes intended, and to establish and make reasonable charges for such services on the basis of a schedule adjusted according to the services required to make such investigation or on any other reasonable method.

(3) When it appears to the county engineer that the completion of the improvement by or on behalf of any such individual or corporation requires inspection and supervision in order to assure the protection of the public safety and the proper subsequent completion of such work for the purposes intended, the county engineer shall include such findings in his recommendation to the fiscal court ***or the consolidated local government*** approving, modifying***,*** or disapproving the particular plans and projects, and shall charge such person or corporation for such inspection and supervision on the basis of the actual cost of inspection plus a reasonable additional cost of supervision.

Section 182. KRS 178.330 is amended to read as follows:

(1) It is hereby declared that in counties containing a city of the first class ***or a consolidated local government*** a system of county through roads over which traffic can be routed or which can serve as major connecting links to state highways is a necessary and integral part of a unified system of highways, roads and streets needed for the movement of traffic in such a metropolitan area and that the construction, reconstruction, widening, relocation, repair, maintenance and improvement of such a system of county through roads is a proper and legitimate public function as an alternative to other authorizations or requirements.

(2) The fiscal court of a county containing a city of the first class ***or the consolidated local government***, acting upon the basis of an engineering and traffic investigation by the county road engineer, may designate for purposes of construction,

reconstruction, widening, relocation, repair, maintenance and improvement from among the public roads within the county certain roads proposed to constitute the "county through road system." County through roads may include (a) main traveled roads, (b) roads in unincorporated areas necessary for the circulation of traffic within the county, (c) streets and roads through, within, or adjacent to cities of any class necessary for the circulation of traffic within the county, or (d) major roads connecting two (2) primary roads maintained by the state. County through roads shall not include roads on the state highway system.

(3) As soon as the proposed county through roads are designated as provided in subsection (2) of this section, the fiscal court ***or a consolidated local government*** shall cause such county through roads to be marked on a map to be deposited with the county road engineer and to be open to public inspection. Upon the filing of the map, the clerk of the fiscal court ***or the clerk of a consolidated local government*** shall, in conformance with KRS 424.130(1)(b), have published in a newspaper of bona fide general circulation within the county (a) a notice of the proposed adoption of a county through road system, (b) a description of roads or portions thereof proposed to be included, (c) notice of the date upon which the fiscal court ***or a consolidated local government*** will consider the adoption of the county through road system, and (d) notice that the map of the proposed county through road system is open to inspection in the office of the county road engineer.

(4) At any time before the adoption of the county through road system, any freeholder of the county may file a petition with the county road engineer asking for any change in the designated county through roads, setting forth the reason for the proposed change. Such petition shall be accompanied by a plat showing such proposed change. Any such petition shall be considered by the fiscal court ***or the consolidated local government*** at its meeting held on the date advertised in accordance with subsection (3) of this section. The fiscal court ***or the consolidated local government*** may accept or reject any such suggested changes in the proposed county through road system. The fiscal court ***or the consolidated local government*** may continue the consideration to a later meeting which must be advertised as provided in subsection (3) of this section. The roads which the fiscal court ***or the consolidated local government*** so designated by official resolution shall be conclusively established as the county through road system.

(5) Classifications or designations of a county through road system established by this section shall not affect or change classifications or designations made by other sections of the Kentucky Revised Statutes such as "county roads," "main county roads," "rural and secondary roads," "turnpikes," "city streets" or similar terms; except that when there is an irreconcilable conflict arising from the actual application of this section in a given instance and a designation or classification made in other sections of the Kentucky Revised Statutes, this section shall prevail. Nothing in KRS 178.020 to 178.040, 178.117, 178.330 to 178.337, 179.070 and 179.330 shall preclude the expenditure on the county through road system, including portions within cities, of state funds allocated for public highways under the provisions of KRS 179.410 and 179.415, or 177.320 to 177.369, or any other section of the Kentucky Revised Statutes in accordance with the provisions of KRS 177.330, 177.340, or 179.440.

(6) The provisions of KRS 178.050 to 178.100 shall not apply to a county through road system established ***or maintained*** under KRS 178.330 to 178.337.

Section 183. KRS 178.333 is amended to read as follows:

(1) The fiscal court of a county containing a city of the first class ***or a consolidated local government*** may, at any time, add other roads, or portions of roads, to the county through road system adopted in accordance with KRS 178.330. The fiscal court ***or a consolidated local government*** shall cause the proposed addition to be marked on a map to be deposited with the county road engineer and to be open to public inspection. The same procedure set forth in KRS 178.330 for the establishment ***or maintenance*** of the county through road system shall be followed in the case of roads or portions of roads added thereto. Notice of the proposed addition to the system shall conform to KRS 424.130(1)(b).

(2) The fiscal court of a county containing a city of the first class ***or a consolidated local government*** may establish ***or maintain*** a new road in compliance with the provisions of KRS 178.115 to 178.125, or relocate a road in accordance with KRS 178.115, and at the same time add it to the county through road system, following the same procedure as is now set forth in KRS 178.330 and subsection (1) of this section, including notice in accordance with KRS 424.130(1)(b).

(3) The decisions of the fiscal court ***or the consolidated local government*** made in accordance with this section shall be final.

Section 184. KRS 178.337 is amended to read as follows:

(1) After an engineering and traffic investigation and the receipt of recommendations by the county road engineer, a county through road or a portion thereof established ***or maintained*** as provided in KRS 178.330 may be detached from the county through road system. The fiscal court ***or the consolidated local government*** shall cause the proposed deletion to be marked on a map to be deposited with county road engineer and to be open to public inspection. The same procedure set forth in KRS 178.330 for the establishment ***or maintenance*** of a county through road system shall be followed in the case of roads or portions of roads detached therefrom. Notice of the proposed deletion from the system shall conform to KRS 424.130(1)(b). The fiscal court ***or the consolidated local government*** may in its discretion detach or retain the road as a part of the county through road system. The decisions of the fiscal court ***or the consolidated local government*** made in accordance with this section shall be final. Whenever any county through road has been added or detached from the county through road system in accordance with KRS 178.330 to 178.337, the county road engineer shall accordingly amend the map of the county through road system, which map shall at all times be available for public inspection in the office of the county road engineer. Nothing herein shall be construed as automatically deleting from the county through road system

any portion of the system in territory which becomes incorporated as a city or which becomes annexed to a city.

(2) Nothing in this chapter shall be construed to take from the jurisdiction or control of the legislative body of any incorporated city ***or consolidated local government***, any road, bridge, landing or wharf, or any other thing exclusively under the jurisdiction or control of such city ***or a consolidated local government***. Provided, however, that roads within a city of the first through sixth classes in a county containing a city of the first class ***or a consolidated local government*** may be made a part of the county through road system, in accordance with KRS 178.330 or 178.333, or both, with the agreement of the legislative body of said city.

(3) Nothing in this chapter shall prevent any fiscal court ***or a consolidated local government*** from acquiring land by gift for public purposes.

Section 185. KRS 178.350 is amended to read as follows:

The provisions of KRS 178.350 to 178.385 shall apply only in counties containing a city of the first class ***or a consolidated local government***.

Section 186. KRS 178.405 is amended to read as follows:

When any private road, street, or highway established prior to February 12, 1969 in an unincorporated area in a county containing a city of the first class ***or a consolidated local government, which area is not within the jurisdictional boundaries of a city of the second through sixth classes of cities,*** has been used by the general public openly, continuously, and notoriously for a period of at least fifteen (15) years, it shall be implied that such road, street, or highway may be dedicated to public use; Provided, that fifty-five percent (55%) of all property owners abutting the private road, street or highway sign a petition stating that they are willing to dedicate the road, street, or highway to public use.

Section 187. KRS 179.070 is amended to read as follows:

(1) The county engineer shall:

(a) Have general charge of all county roads and bridges within the county;

(b) See that county roads and bridges are improved and maintained as provided by law;

(c) Supervise the construction and maintenance of county roads and bridges and other work of like nature undertaken by the fiscal court ***or a consolidated local government***;

(d) Make reports as the county***, consolidated local government,*** or fiscal court directs;

(e) Advise and direct employees of contractors how best to repair, maintain, and improve county roads and bridges;

(f) Examine the various formations and deposits of gravel and stone in the county to ascertain the materials most available and best suited for the improvement of roads therein, and, when requested by the Department of Highways, submit samples of materials and deposits and make a written report concerning the materials;

(g) Establish or cause to be established necessary grades and recommend means of drainage, repair, and improvement;

(h) Together with the fiscal court ***or consolidated local government***, consider and either reject or approve plans, specifications, and estimates submitted for the erection or repair of bridges and the construction or maintenance of county roads;

(i) Inspect, or cause to be inspected, each county road or bridge during its construction or improvement, and certify to the fiscal court ***or the consolidated local government*** the progress of the work and whether or not the work is being done according to the contract, plans, and specifications prepared therefor. If the work is not being done in accordance with the contract, plans, and specifications, ***the county engineer***~~[he]~~ may stop any further work thereunder until the fiscal court ***or consolidated local government*** has inspected and passed upon it;

(j) Remove trees or other obstacles from the right-of-way of any publicly dedicated road when the tree or other obstacles become a hazard to traffic;

(k) Make recommendation to municipal authorities in a county containing a city of the first or second class***, the mayor in a consolidated local government,*** or the county judge/executive of a county containing a city of the first or second class for the establishment of speed limits in accordance with the powers granted to municipal authorities***, consolidated local governments,*** and the county judge/executive by KRS 189.390(5)(a), and make recommendations to the county judge/executive ***or consolidated local government*** for the establishment of parking restrictions by the county judge/executive ***or consolidated local government*** in accordance with KRS 189.390(5)(c); and

(l) Make engineering and traffic investigations and make recommendations based thereupon to the fiscal court of counties containing a city of the first or second class ***or consolidated local government*** for the adoption of traffic regulations for any publicly dedicated road in unincorporated portions of the county or for any road made a portion of a county through road system, established in accordance with KRS 178.330 or 178.333, or both, in any manner reasonably calculated to promote the safety and convenience of the traveling public and to protect and preserve the roads and streets. The fiscal court ***or consolidated local government*** may adopt regulations which may include, but not be limited to, the establishment on roads designated in the first sentence of this subsection, of traffic lanes, the installation or removal of electric signals and other signs and markers, the removal of traffic bumps, the limitation or prohibition of parking, and the regulation or prohibition of a size or weight deemed likely to impede traffic or injure the streets; provided, however, that if such regulation of size and weight of vehicles conflicts with state regulations, the latter shall prevail. Nothing herein shall be construed to prevent the fiscal court ***or consolidated local government*** from contracting with city authorities for the joint installation of signs, markers, and electric signals and for their maintenance.

(2) In counties containing a city of the first class ***or consolidated local government***, or when authorized by ordinance of the fiscal court of a county containing a city of the second class, having the services of a county engineer, every person, subdivider, builder, contractor, or developer of any construction project shall submit to the county engineer for his written approval a site development plan providing for the proper drainage of surface water from the development or construction site so as to prevent flooding of property in the area. If the proposed site plan does not adequately provide for such drainage, the county engineer shall order such changes as necessary before approving the site plan.

Section 188. KRS 179.330 is amended to read as follows:

(1) Every county road shall be known by the name by which it was designated on the map or plat or record in the office of the county clerk of the county in which it is located or by the order of the court establishing the road, or by the deed conveying the right-of-way for the road to the county.

(2) When the name of any road has been designated as provided in subsection (1) of this section, the name of the road can only be changed by an order of the county judge/executive ***or the mayor of a consolidated local government***. Such order may be issued on a petition and proceeding in which fifty percent (50%) or more of the property owners abutting upon the road have joined in the petition or have been summoned for a hearing upon the petition by the county judge/executive ***or the mayor of a consolidated local government*** at a day and time designated for the hearing or in counties containing a city of the first class ***or consolidated local government*** upon the recommendation of the county engineer and of the planning and zoning commission. On similar proceeding an order may be issued designating a name for any unnamed road in the county.

(3) The fiscal court ***or a consolidated local government*** may cause signs bearing the name of each road as fixed by the county judge/executive ***or the mayor of a consolidated local government***, to be placed on the roads, or it may, by a resolution duly recorded, authorize any person or organization to erect signs, approved as to form by the fiscal court ***or a consolidated local government***, bearing the name designated to the road by the county judge/executive ***or the mayor of a consolidated local government***.

(4) No person or organization shall remove or damage any sign erected as hereinabove provided for, or erect or place, or cause to be erected or placed, upon a road any sign or signs, indicating, marking, or designating a road by any other name than as hereinabove provided for.

(5) Nothing in this section shall prohibit the Department of Highways from designating roads built under the supervision of the Department of Highways, either by name or number.

Section 189. KRS 179.470 is amended to read as follows:

(1) In counties containing a city of the third class, and not a city of the first class ***or a consolidated local government***, any street or road located outside of the corporate limits of an incorporated city which is a street or road of a subdivision established by a recorded plat that dedicates the street or road to public use, shall be maintained by the fiscal court of the county in the same manner that roads established under KRS 178.115 are maintained, if the street or road is at least one thousand (1,000) feet in length and at least fifty percent (50%) of the lots abutting the street or road contain houses which are occupied, and the street or road has been or shall be so constructed as to meet the approval of the county road engineer or, if there is no county road engineer, the approval of the fiscal court, such approval being based upon the established standards for county road construction within the county.

(2) Notwithstanding the provisions of KRS 178.010(2), in counties containing a city of the first class ***or a consolidated local government***, any street or road located in the[~~unincorporated~~] area of the county ***not within a city of the second, third, or fourth class or within the area formerly comprising a city of the first***[~~or in a city of the fifth or sixth~~] class, which is a street or road of a subdivision that dedicated the street or road to public use, may be maintained by the fiscal court of the county ***or consolidated local government as the case may be,*** in the same manner as provided in subsection (1) and subject to the same conditions. In addition, street lights and other improvements already established may be maintained by the fiscal court ***or consolidated local government***. The county ***or consolidated local government*** shall be reimbursed for the cost of such maintenance by the abutting property owner whose proportionate share of the cost of maintenance shall be added to the owner's county tax bill and collected in the same manner as ***other***[~~county~~] taxes.

(3) Notwithstanding the provisions of KRS 178.010(2), in counties containing a population between eighty thousand (80,000) and one hundred fifteen thousand (115,000) and a city of the second class or in counties containing a city of the fourth, fifth or sixth class and not a city of the first, second or third class, any street or road in an unincorporated area or a city of the sixth class of the county, which is at least two hundred (200) feet in length and dedicated to public use, may be maintained by the fiscal court of the county in the same manner as provided in subsection (1) of this section. In addition, street lights, garbage collection, water and sewer services may be provided by the fiscal court. The county shall be reimbursed for the cost of such maintenance and services by the abutting property owner whose proportionate share of the cost of maintenance and services shall be added to the owner's county tax bill and collected in the same manner as county

taxes. Further, upon the petition of fifty percent (50%) or more of the abutting property owners of the street or road the fiscal court may by proper resolution provide for the improvements.

(4) No street or road shall be accepted by ***a*** fiscal court ***or consolidated local government*** under the provisions of subsections (2) or (3) of this section for county maintenance unless twenty-five percent (25%) of the abutting property owners petition the fiscal court ***or consolidated local government*** for county maintenance. The fiscal court ***or consolidated local government*** within thirty (30) days thereafter shall hold a public hearing on the petition. If fifty percent (50%) of the abutting property owners agree in writing to accept county maintenance***,*** the fiscal court of the county ***or the consolidated local government*** may maintain the road or street in the same manner as provided in subsection (2) or (3) of this section as applicable and subject to the same conditions.

Section 190. KRS 181.850 is amended to read as follows:

(1) ***Except in a county containing a consolidated local government,*** any city of the first class may, by ordinance, create a bridge commission consisting of the mayor and four (4) persons appointed by the mayor with the approval of the board of aldermen. ***In a county containing a consolidated local government, a consolidated local government may, by ordinance, create or maintain a bridge commission consisting of the mayor and four (4) persons appointed by the mayor.*** Each appointee shall be at least twenty-five (25) years of age. The original appointees shall serve for terms expiring on January 1, in the fourth year following their appointments, and until their respective designated successors shall be duly appointed and qualified. Their successors shall be appointed for one (1), two (2), three (3) and four (4) years, respectively. Thereafter the appointments shall be for four-year terms. A member of the bridge commission shall be eligible for reappointment. Not more than two (2) appointees shall be members of the same political party. Vacancies shall be filled for unexpired terms in the same manner as the original appointments. Each appointed member of the bridge commission, before entering upon his duties, shall take an oath to administer the duties of his office faithfully and impartially, and a record of each oath shall be filed in the office of the director of finance of the city ***or consolidated local government***. No officer or employee of the city ***or consolidated local government***, whether he ***or she*** receives compensation or not, shall be appointed to the bridge commission.

(2) The bridge commission shall constitute a public instrumentality under the name of (insert name of city ***or consolidated local government***) bridge commission and the exercise of the powers conferred by KRS 181.850 to 181.869 shall be deemed and held to be the performance of essential ***governmental***[~~municipal~~] functions. The commission shall elect a chairman and a vice chairman from its appointed members, and a secretary-treasurer who need not be a member of the commission. The chairman, vice chairman and secretary-treasurer shall serve as such officers at the pleasure of the commission. Three (3) members of the commission shall constitute a quorum and the affirmative vote of three (3) members shall be necessary for any action taken by the commission. No vacancy in the membership of the commission shall impair the right of a quorum to exercise all the rights and perform all the duties of the commission.

(3) The members of the commission except the mayor shall receive such compensation as may be fixed in the ordinance creating the commission but the maximum compensation of the chairman in any year shall not exceed two thousand five hundred dollars ($2,500) and of each other member shall not exceed five hundred dollars ($500). The commission shall fix or change the compensation of the secretary-treasurer in its discretion.

Section 191. KRS 181.851 is amended to read as follows:

As used in KRS 181.850 to 181.869, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(1) The word "city" shall mean any city of the first class ***or consolidated local government*** for which a bridge commission shall be appointed under the provisions of KRS 181.850;

(2) The word "commission" shall mean any bridge commission created under the provisions of KRS 181.850, or, if any such commission shall be abolished, the board, body, or commission succeeding to the principal functions thereof or to whom the powers given by KRS 181.850 to 181.869 to the commission shall be given by law;

(3) The word "bridge" shall include the substructure and superstructure, overpasses, underpasses, entrance plazas, tollhouses, administration, storage, and other buildings and facilities, all equipment therefor, and such approaches and approach highways as may be determined by the commission to be necessary to facilitate the flow of traffic or to connect such bridge with the highway systems or other traffic facilities in the vicinity of such bridge, together with all property, rights, easements, and interests which may be acquired by the commission for the construction or operation of such bridge;

(4) The word "cost" as applied to a bridge shall embrace the cost of construction, the cost of the acquisition of all land, rights-of-way, property, rights, easements, and interests acquired by the commission for such construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to and during construction, and, if deemed advisable by the commission, for a period not exceeding one (1) year after completion of construction, cost of traffic estimates and of engineering, financial and legal services, plans, specifications, surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing any such bridge, administrative expenses, and such other expenses as may be necessary or incident to the construction of the bridge, the financing of such construction, and the placing of the bridge in operation. Any obligation or expense incurred by the city in connection with any of the foregoing items of cost may be regarded as a

part of such cost and reimbursed to the city out of the proceeds of revenue bonds issued under the provisions of KRS 181.850 to 181.869.

Section 192. KRS 181.853 is amended to read as follows:

(1) The commission is hereby authorized and empowered to acquire by purchase, whenever it shall deem such purchase expedient, solely from funds provided under the authority of KRS 181.850 to 181.869, within or without the Commonwealth, such lands, structures, property, rights, rights of way, franchises, easements and other interests in lands, including lands lying under water and riparian rights, as it may deem necessary or convenient for the construction or operation of any bridge, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof, and to take title thereto in the name of the city for the use and benefit of the commission.

(2) Whenever a reasonable price cannot be agreed upon, or whenever the owner is legally incapacitated or is absent, unknown or unable to convey valid title, the commission is hereby authorized and empowered to acquire by condemnation or by the exercise of the power of eminent domain any lands, property, rights, rights of way, franchises, easements and other property, including public lands, parks, playgrounds, reservations, highways, or parkways or parts thereof or rights therein, of any person, co-partnership, association, railroad, public service, public utility or other corporation, or municipality or political subdivision deemed necessary or convenient for the construction or the efficient operation of any bridge or necessary in the restoration of public or private property damaged or destroyed. Any such proceedings shall be conducted in the name of the commission, and the compensation to be paid shall be ascertained and paid, in the manner provided by the constitution and laws of the Commonwealth then applicable which relate to condemnation or to the exercise of the power of eminent domain by cities[~~ of the first class~~]. Title to any property acquired by the commission shall be taken in the name of the city for the use and benefit of the commission. In any condemnation proceedings the court having jurisdiction of the suit, action or proceeding may make such orders as may be just to the commission and to the owners of the property to be condemned and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the commission to accept and pay for the property, but neither such undertaking or security nor any act or obligation of the commission shall impose any liability upon the city or commission except as may be paid from the funds provided under the authority of KRS 181.850 to 181.869.

(3) If the owner, lessee or occupier of any property to be condemned shall refuse to remove his ***or her*** personal property therefrom or give up possession thereof, the commission may proceed to obtain possession in any manner now or hereafter provided by law.

(4) With respect to any railroad property or right of way upon which railroad tracks are located, any powers of condemnation or of eminent domain may be exercised to acquire only an easement interest therein which shall be located either sufficiently far above or sufficiently far below the grade of any railroad track or tracks upon such railroad property so that neither the proposed bridge nor any part thereof, including abutments, columns, supporting structures and appurtenances, nor any traffic upon it shall interfere in any manner with the use, operation or maintenance of the trains, tracks, works or appurtenances or other property of the railroad nor endanger the movement of the trains or traffic upon the tracks of the railroad. Prior to the institution of condemnation proceedings for such easement over or under such railroad property or rights of way, plans and specifications of the proposed bridge showing compliance with the above-mentioned above or below grade requirements and showing sufficient and safe plans and specifications of such overhead or undergrade structure and appurtenances shall be submitted to the railroad for examination and approval. If the railroad fails or refuses within thirty (30) days to approve the plans and specifications so submitted, the matter shall be submitted to the department of works of the city whose decision, arrived at after due consideration and with an opportunity to the railroad to be heard, shall be final as to the sufficiency and safety of such plans and specifications and as to such elevations or distances above or below the tracks. Said overhead or undergrade structure and appurtenances shall be constructed only in accordance with such plans and specifications and in accordance with such elevations or distances above or below the tracks so approved by the railroad or the department of works of said city as the case may be. A copy of the plans and specifications approved by the railroad or the department of works of said city shall be filed as an exhibit with the petition for condemnation.

(5) The Commonwealth hereby consents to the use of all lands owned by it, including lands lying under water, which are deemed by the commission to be necessary for the construction or operation of any bridge.

Section 193. KRS 183.132 is amended to read as follows:

(1) Any urban-county government, city, or county, or city and county acting jointly, or any combination of two (2) or more cities, counties, or both, may establish a nonpartisan air board composed of six (6) members. Any city other than the first class and county jointly or an urban-county government established pursuant to KRS Chapter 67A may establish a nonpartisan board composed of ten (10) members. Any existing six (6) member board, including a board established in an urban-county government, may be expanded to ten (10) members by action of the government entity or entities that established the six (6) member board.

(2) Any city of the first class, jointly with the county containing the city ***or a consolidated local government*** may establish ***or maintain*** a nonpartisan air board. Membership of the board shall be appointed in accordance with subsection (6) of this section.

(3) The board shall be a body politic and corporate with the usual corporate attributes, and in its corporate name may sue and be sued, contract and be contracted with, and do all things reasonable or necessary to effectively carry out the duties prescribed by statute. The board shall constitute a legislative body for the purposes of KRS 183.630 to 183.740.

(4) The members of an air board composed of six (6) members shall be appointed as follows:

(a) If the air board is established by a city, the members shall be appointed by the mayor of the city;

(b) If the air board is established by a county, the members shall be appointed by the county judge/executive except that in the event that an airport is located outside the boundary of the county establishing the airport board, the county judge/executive shall appoint an additional member to the air board from the jurisdiction where the airport is physically located. The additional member shall serve a four (4) year term in accordance with the provisions of subsection (7) of this section and receive full voting privileges on matters brought before the airport board;

(c) If the air board is established as a joint city-county air board, the members shall be appointed jointly by the mayor of the city and the county judge/executive;

(d) If a combination of cities, counties, or both, establishes a joint air board, the mayors and county judges/executive involved shall jointly choose six (6) members and shall jointly choose successors;

(e) If the air board is established by an urban-county government, the mayor of the urban-county government or an officer of the urban-county government designated by the mayor shall serve as one (1) member of the board. The remaining five (5) members shall be appointed by the mayor. One (1) of the members appointed by the mayor shall live within a three (3) mile radius of the airport.

(5) The members of an air board composed of ten (10) members in a city other than a city of the first class and county jointly other than an urban-county government established pursuant to KRS Chapter 67A shall be appointed as follows:

(a) Five (5) members shall be appointed by the mayor of the city, without approval of the legislative body;

(b) Five (5) members shall be appointed by the county judge/executive without approval of the other members of the fiscal court.

(6) The members of an air board established jointly by a city of the first class and the county containing the first class city shall be composed of the mayor of the city of the first class and the county judge/executive of the county, and other members appointed as follows:

(a) Three (3) members shall be appointed by the mayor of the city of the first class;

(b) Three (3) members shall be appointed by the county judge/executive of the county, with the approval of the fiscal court; and

(c) Two (2) members, who shall be residents of the county containing a city of the first class or of counties contiguous thereto, shall be appointed by the Governor of the Commonwealth.

(d) If there is an incorporated alliance of incorporated neighborhood associations and fifth or sixth class cities, which represents citizens living within a five (5) mile radius of airport operations, the Governor shall appoint one (1) member of the executive board of an alliance as an additional member to the air board. If more than one (1) incorporated alliance exists, the Governor shall select the appointee from the executive boards of all the incorporated alliances.

(7) The members of an air board composed of ten (10) members established by an urban-county government shall be composed of the mayor of the urban-county government or an officer of the urban-county government designated by the mayor. The remaining nine (9) members shall be appointed by the mayor. Two (2) of the members appointed by the mayor shall live within a three (3) mile radius of the airport.

(8) Members of the board composed of six (6) members shall serve for a term of four (4) years each and until their successors are appointed and qualified. The initial appointments shall be made so that two (2) members are appointed for two (2) years, two (2) members for three (3) years, and two (2) members for four (4) years. Upon expiration of the staggered terms, successors shall be appointed for a term of four (4) years.

(9) Members of the board composed of ten (10) members in a city other than a city of the first class and county jointly shall serve for a term of four (4) years each and until their successors are appointed and qualified. The initial appointments made by the mayor and the county judge/executive shall be made so that one (1) member is appointed for two (2) years, two (2) members are appointed for three (3) years, and two (2) members are appointed for four (4) years. If an existing six (6) member board is being increased to a ten (10) member board, initial appointments of the four (4) new members shall be made so that the mayor and the county judge/executive, or the mayor if the board is established by an urban-county government, each appoint one (1) member for two (2) years and one (1) member for four (4) years. Upon expiration of the initial terms, successors shall be appointed for a term of four (4) years. In the case of a board established by an urban-county government, the term of the mayor for the urban-county government, or the officer of the urban-county government designated by the mayor, shall be coextensive with the term of the mayor.

(10) Members of the board composed of eleven (11) members and established ***or maintained*** jointly by a city of the first class and the county containing a city of the first class shall serve for a term of three (3) years each and until their successors are appointed and qualified. The terms of the mayor and the county judge/executive shall be coextensive with their terms of

office. The mayor and the county judge/executive shall each make their initial appointments ***to a board established jointly by a city of the first class and the county containing a city of the first class*** so that one (1) member is appointed for one (1) year, one (1) member is appointed for two (2) years, and one (1) member is appointed for three (3) years. The Governor shall make the initial appointments so that one (1) member is appointed for two (2) years and one (1) member is appointed for three (3) years. Upon the expiration of the initial terms, successors shall be appointed for a term of four (4) years. ***Upon the establishment of a consolidated local government in a county containing a former city of the first class, seven (7) members of the board shall be appointed by the mayor of the consolidated local government for a term of three (3) years. Incumbent members upon the establishment of the consolidated local government shall continue to serve as members of the board for the time remaining of their current term of appointment. The Governor shall appoint members pursuant to subsection 6(c) and (d) of this section. The mayor shall serve on the board for a term which shall be coextensive with his or her term of office. Incumbent members shall be eligible for reappointment upon the expiration of their terms. In a consolidated local government that takes effect on January 6, 2003, the terms of all board members shall continue to be for three (3) years. The members of the air board on January 6, 2003, shall continue to serve as members for the time remaining on their terms and shall be eligible for reappointment upon the expiration of their terms. The one (1) appointment, which occurs upon the transition of a county containing a city of the first class to a consolidated local government shall be made by the mayor within sixty (60) days after the establishment of the consolidated local government. As the terms of the appointments made while the air board was governed by a city of the first class and a county containing the city of the first class expire, the mayor and the Governor shall respectively make their new appointments.***

(11) Members of the board shall serve without compensation but shall be allowed any reasonable expenses incurred by them in the conduct of the affairs of the board. The board shall, upon the appointment of its members, organize and elect officers. The board, except for a board composed of eleven (11) members and established jointly by a city of the first class and the county containing a city of the first class ***or a consolidated local government***, shall choose a chairman and vice chairman who shall serve for terms of one (1) year. Where the board is composed of eleven (11) members and established jointly by a city of the first class and the county containing a city of the first class, the mayor of the city of the first class and the county judge/executive shall jointly appoint the chairman from among the membership of the board. ***In a consolidated local government, the mayor shall appoint the chairman from among the membership of the board.*** The board shall also choose a secretary-treasurer who may or may not be a member of the board. The board may fix a salary for the secretary-treasurer and the secretary-treasurer shall execute an official bond to be set and approved by the board, and the cost of the bond shall be paid by the board.

(12) The board may employ necessary counsel, agents, and employees to carry out its work and functions and prescribe rules and regulations as it deems necessary.

(13) The secretary-treasurer shall keep the minutes of all meetings of the board and shall also keep a set of books showing the receipts and expenditures of the board. The secretary-treasurer shall preserve on file duplicate vouchers for all expenditures and shall present to the board, upon request, complete reports of all financial transactions and the financial condition of the board. The books and vouchers shall at all times be subject to examination by the legislative body or bodies by whom the board was created. The secretary-treasurer shall transmit at least once annually a detailed report of all acts and doings of the board to the legislative body or bodies by whom the board was created.

(14) In the event that a joint air board is created by cities, counties, or both, and thereafter a city or county desires to withdraw from participation, then the remaining participants may jointly choose a successor member or members of the board. A local government wanting to withdraw from participation in the board shall not be entitled to return of any moneys or property advanced to the board.

(15) A quorum for the transacting of the business of a six (6) member board shall consist of four (4) members, a ten (10) member board shall consist of six (6) members, and an eleven (11) member board shall consist of six (6) members. Meetings of the board may be called by the chairman or by four (4) members. In case of tie voting by the board, the issue shall be deemed to have failed passage.

(16) A board member may be replaced by the appointing authority upon a showing to the authority of misconduct as a board member or upon conviction of a felony. A board member shall not hold any official office with the appointing authority, except for the mayor of a city of the first class and the county judge/executive on a board made up of eleven (11) members and established jointly by a city of the first class and the county containing a city of the first class, or the mayor of an urban-county government ***or a consolidated local government***, or an officer of the urban-county government designated by the mayor on a board established by an urban-county government.

Section 194. KRS 198A.067 is amended to read as follows:

Before the corporation provides financing for construction of multifamily housing of twelve (12) units or more, an ordinance must be enacted by the fiscal court, city***, consolidated local government,*** or urban-county government in whose territorial limits the construction is to occur.

Section 195. KRS 198B.290 is amended to read as follows:

In counties with cities of the first class ***or a consolidated local government*** and cities within those counties, a permit to rebuild a commercial business on property contiguous to a river, and a permit to rebuild single-family dwellings on properties contiguous to a river, shall be issued if the construction plans meet the requirements of any local floodplain ordinance.

Section 196. KRS 210.040 is amended to read as follows:

The Cabinet for Health Services shall:

(1) Exercise all functions of the state in relation to the administration and operation of the state institutions for the care and treatment of persons with mental illness;

(2) Establish or acquire, in accordance with the provisions of KRS 56.440 to 56.550, other or additional facilities for psychiatric care and treatment of persons who are or may become state charges;

(3) Cooperate with other state agencies for the development of a statewide mental health program looking toward the prevention of mental illness and the post-institutional care of persons released from public or private mental hospitals;

(4) Provide for the custody, maintenance, care, and medical and psychiatric treatment of the patients of the institutions operated by the cabinet;

(5) Provide psychiatric consultation for the state penal and correctional institutions, and for the state institutions operated for children or for persons with mental retardation;

(6) Administer and supervise programs for the noninstitutional care of persons with mental illness;

(7) Administer and supervise programs for the care of persons with chronic mental illness, including but not limited to provision of the following:

  (a) Identification of persons with chronic mental illness residing in the area to be served;

  (b) Assistance to persons with chronic mental illness in gaining access to essential mental health services, medical and rehabilitation services, employment, housing and other support services designed to enable persons with chronic mental illness to function outside inpatient institutions to the maximum extent of their capabilities;

  (c) Establishment of community-based transitional living facilities with twenty-four (24) hour supervision and community-based cooperative facilities with part-time supervision; provided that, no more than either one (1) transitional facility or one (1) cooperative facility may be established in a county containing a city of the first class ***or consolidated local government*** with any funds available to the cabinet;

  (d) Assurance of the availability of a case manager for each person with chronic mental illness to determine what services are needed and to be responsible for their provision; and

  (e) Coordination of the provision of mental health and related support services with the provision of other support services to persons with chronic mental illness;

(8) Supervise private mental hospitals receiving patients committed by order of a court.

Section 197. KRS 211.1751 is amended to read as follows:

As used in KRS 211.1751 to 211.1755:

(1) "Agency" means a local health department established pursuant to the provisions of KRS Chapter 212, excluding a health department in a county containing a city of the first class, ***a consolidated local government,*** an urban-county health department, or an independent district health department.

(2) "Classification plan" means the system of classes and job descriptions, and the process for the installation and maintenance of the classification plan.

(3) "Compensation plan" means a series of salary ranges to which classes of positions are assigned so that classifications evaluated as approximately equal may be assigned to the same salary range.

(4) "Council" means the Local Health Department Employment Personnel Council created in KRS 211.1752.

(5) "Department" means the Department for Public Health within the Cabinet for Health Services.

Section 198. KRS 211.370 is amended to read as follows:

The commissioner of the Department for Public Health shall, upon written request from a local board of health, authorize the local board of health to serve as its agent to issue permits for on-site sewage disposal systems within that area of local board jurisdiction. As agent, the authorized local board of health shall act for the cabinet in issuing permits and granting variances for on-site sewage disposal systems. Actions by the local board of health shall comply with the regulations established by the cabinet relating to on-site sewage disposal systems. The local board of health shall include in the written request a procedure for administering this section. The local board of health may adopt regulations relating to the proper operation and maintenance of on-site sewage disposal systems. In counties containing a city of the first class ***or a consolidated local government*** and in urban-counties, the local board of health may adopt regulations relating to the proper construction, installation, and alteration of on-site sewage disposal systems which are more stringent than the regulations adopted by the cabinet.

Section 199. KRS 212.350 is amended to read as follows:

(1) In each county of the Commonwealth of Kentucky in which there is located a city of the first class ***or a consolidated local government***, there is hereby created a board of health which board shall be a body politic and corporate, and shall be known as the ".... (name of city of the first class) and .... (name of county) ***or ..... (name of the consolidated local government)*** County Board of Health" hereinafter called the "board," which board shall have jurisdiction throughout such

county, including all municipalities in said county with respect to and in accordance with the provisions of KRS 212.350 to 212.620. Wherever the words "city" and "mayor" are used in KRS 212.350 to 212.620 they shall mean such city of the first class ***or consolidated local government***, and the mayor thereof. Said board may, in its corporate name, sue and be sued, contract and be contracted with and acquire real, personal and mixed property by deed, purchase, gift, devise, lease, condemnation or otherwise, and dispose of same; and may make appropriate rules and regulations and do all things reasonable or necessary effectively to carry out the work and properly to perform the duties intended or required by KRS 212.350 to 212.620. When and after the board herein created is organized as herein provided, and except as otherwise provided by law, said board shall succeed to and be vested with all of the functions, obligations, powers and duties now being exercised by the county board of health[~~ of such county~~], any department of public health[~~ of such city~~], and by any board of tuberculosis hospital in such county; and thereupon ***the***[~~said county~~] board of health and ***the***[~~said~~] department of health and ***the***[~~said~~] board of tuberculosis hospital shall cease to exist, and all laws and amendments of said laws, relating to and governing the aforesaid county board of health, department of public health, and board of tuberculosis hospital, in conflict with the provisions of KRS 212.350 to 212.620, shall, to the extent of such conflict, stand and be repealed.

(2) Notwithstanding KRS 212.350 to 212.625, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the county and such city of the first class shall agree that the county shall provide all staff support, including a director of health, to the board of health through county officers, assistants, clerks, deputies and employees. In such case, all officers, employees and staff of the board of health and the department of health shall be deemed county employees and shall be subject to the control of fiscal court. At the time the compact takes effect the officers, employees and staff of the board of health and the department of health shall be transferred to the service of county government; provided that all such employees who at such time are in the classified service shall be continued in a classified service administered by county government. All functions, obligations, powers and duties now vested in the board of health shall continue to be vested in the board unless changed by ordinance of the fiscal court of such county. ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing that city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the requirements of this subsection pertaining to county government shall be assumed by the consolidated local government.***

Section 200. KRS 212.360 is amended to read as follows:

(1) All property, real, personal and mixed, belonging to such county or city and now being used exclusively and directly by and for the county board of health of such county and the department of public health of such city, in the performance of duties connected with the maintenance of the public health, including, but without being limited thereto, city or county hospitals, public health clinics, all the equipment in such institutions, and all other property of every character or description now used in public health work in and by said city and county organizations, and all property, real, personal and mixed, belonging to any board of tuberculosis hospital in such county, is hereby transferred to said board created under KRS 212.350, and said city, county and board of tuberculosis hospital shall take all necessary and proper steps to effect the legal transfer of title and possession of all such property to said board. All deeds to such property shall be recorded in the county where the property is located. Said board shall assume all existing liabilities of said board of tuberculosis hospital and shall liquidate such liabilities in the same manner and on the same terms as would have been done by said board of tuberculosis hospital.

(2) In the event that it is deemed desirable or advisable by the city, county***,*** and board that any other division of the city or county or any other governmental agency, including any institution, should be taken over and placed under the control and management and supervision of the board, then and in that event, such division, agency, or institution may be taken over under such terms and conditions as to its management, operation and maintenance as the said city, by ordinance, the said county and the board, by respective resolutions and agreements, may authorize and direct.

(3) Upon the establishment of a consolidated local government in a county having a board of health previously formed by the city and county, all property, real, personal, and mixed, belonging to the board of health shall remain the property of the board of health as renamed under KRS 212.350.

Section 201. KRS 212.380 is amended to read as follows:

(1) ***Except in a county containing a consolidated local government,*** said board shall be composed of ten (10) members, two (2) of whom shall be the mayor of such city, and the county judge/executive of such county, as members ex officio, and four (4) of whom shall be appointed by the mayor of such city and four (4) of whom shall be appointed by the county judge/executive of such county with the approval of the fiscal court. Each appointive member shall be not less than thirty (30) years of age, intelligent, discreet, and shall have been a continuous resident of such county for at least two (2) years prior to the date of his or her appointment. At least one (1) and not more than three (3) of said appointive members shall be physicians, one (1) of said appointive members shall be a dentist, and at least one (1) of said appointive members shall be a registered nurse. All appointive members shall be eligible for reappointment.

(2) At the expiration of each of the terms of office of said eight (8) appointive members, the successor to each member shall be appointed by said county judge/executive and said mayor for a term of office of four (4) years and until his successor is appointed and qualified.

(3) The two (2) appointments which increase the appointed members from six (6) to eight (8) shall both occur on July 1, 1974, one (1) of which shall be for a term expiring on June 30, 1978, the other of which shall be for a term expiring on June 30, 1975. Each subsequent appointment to the board shall be for a term of four (4) years.

(4) Notwithstanding subsection (2) of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the terms of the members on the board shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, the mayor, and county judge/executive with the approval of the fiscal court, shall adjust the terms of the sitting members so that the terms of two (2) each of their appointments expire in one (1) year, the term of one (1) each of their appointments expire in two (2) years and the term of one (1) each of their appointments expire in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years.

(5) Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing that city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the board shall be composed of ten (10) members, the mayor and nine (9) members who shall be appointed to the board of health by the mayor of the consolidated local government for a term of three (3) years. Incumbent board members, upon the establishment of the consolidated local government, shall continue to serve as members of the board for the time remaining of their current term of appointment and until their successor is appointed and qualified. The mayor shall serve on the board for a term which shall be coextensive with his or her term of office.

Section 202. KRS 212.390 is amended to read as follows:

(1) Any vacancy on the board occurring by reason of death, resignation, disqualification, removal, or otherwise, of any appointive member shall be filled ***in the same manner as the original appointment***[~~by appointment by the mayor and county judge/executive~~] for the balance of the term of the member whose place is so vacated. The ***appointing authority is***[~~mayor and county judge/executive are~~] hereby given the exclusive power and authority to determine and declare when a vacancy exists.

(2) ***Except in a county containing a consolidated local government,*** if said county judge/executive and said mayor fail within said thirty-day period to make an appointment to fill any one (1) or more of the five (5) original positions of membership on said board, then and in that event the appointment to fill any such original position shall be made by the majority vote of a board to be composed of the county judge/executive of such county, the mayor of such city, and the president of the board of tuberculosis hospital in such county and city. Thereafter, in the event said county judge/executive and said mayor fail to make an appointment to fill any vacancy on said board within thirty (30) days after such vacancy, for any reason, occurs, the board itself shall have the power and is hereby authorized to make the appointment to fill such vacancy. ***In a county containing a consolidated local government, the mayor shall fill a vacancy to the board no later than thirty (30) days after the occurrence of the vacancy. In the event the mayor fails to make the appointment within the thirty (30) days, the appointment shall be made by the remaining members of the board.***

(3) If the board has advance knowledge that a vacancy on the board will for any reason occur, the board shall, in advance of the occurrence of such vacancy (thirty (30) days in advance if possible) report in writing to the ***appointing authority***[~~mayor and county judge/executive~~] the facts pertaining to such approaching vacancy. In any case where the board does not have advance knowledge of a pending vacancy, said board upon the occurrence of such vacancy shall forthwith in writing report such vacancy to the ***appointing authority***[~~mayor and county judge/executive~~]. After said vacancy or vacancies have been so reported the procedure for filling such vacancy or vacancies shall be the same as the general procedure hereinabove set forth.

(4) Resignation by a member of the board shall be in writing addressed and submitted to the ***appointing authority***[~~mayor and county judge/executive~~] and a copy thereof furnished to the chairman of the board.

Section 203. KRS 212.432 is amended to read as follows:

Notwithstanding the provisions of KRS 61.510 to 61.705 (Chapter 110, 1956 Acts of the General Assembly of Kentucky and amendments thereto) and KRS 78.510 to 78.852, on July 1, 1962, all regular full-time present and future public health employees of any joint city-county health department ***or board of health*** located in a county containing a city of the first class ***or a consolidated local government*** shall be included within the provisions of the state retirement system.

Section 204. KRS 212.600 is amended to read as follows:

All municipalities in any county of this Commonwealth in which county there is located a city of the first class ***or a consolidated local government*** are hereby made subject to the provisions of KRS 212.350 to 212.620, and it shall be the duty of the board created in KRS 212.350 to make and enforce all reasonable regulations controlling or affecting the health of citizens and residents of said county, including all municipalities therein, in conformity with the provisions of KRS 212.350 to 212.620 and the laws of the Commonwealth of Kentucky, the rules and regulations of the Cabinet for Health Services of Kentucky, and the ordinances of said municipalities now or hereafter in effect and not in conflict with the provisions of KRS 212.350 to 212.620. Such regulations shall, as nearly as may be practicable, be uniform throughout the county, both within and without the said municipalities; provided, however, that nothing contained in this section shall be construed to prevent the board from making specific health regulations applying only to such section or sections of said county as may be deemed to require special treatment. The board shall have power and authority to examine into all nuisances, sources of filth, and causes or probable causes of sickness, which may in its opinion be injurious to the health of the residents of such county or of any section or sections thereof.

Section 205. KRS 212.750 is amended to read as follows:

(1) It is the intent of this section and KRS 212.755, inter alia, to create a public health taxing district via operation of law in every county of the Commonwealth that has not heretofore created same except in counties containing cities of the first

class ***or consolidated local government***.

(2) In all counties where a county or city-county health department has been established except in counties containing a city of the first class ***or a consolidated local government***, and a public health taxing district has not been established pursuant to the provisions of KRS 212.720 to 212.740, a public health taxing district is hereby declared to be created upon June 13, 1968. The members of the county, or city-county board of health shall, by virtue of their office, constitute and be the governing body of the public health taxing district and shall perform the duties attendant thereto in addition to their duties as members of the county, or city-county board of health. The officers of the county or city-county board of health shall be the officers of the public health taxing district.

(3) Nothing in this section and KRS 212.755 shall in any way abridge the rights of two (2) or more counties from establishing a district health department.

Section 206. KRS 212.990 is amended to read as follows:

(1) Any owner or occupant who fails to comply with an order made under the provisions of subsection (1) of KRS 212.210 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100) and each day's continuance of the nuisance, source of filth or cause of sickness, after the owner or occupant has been notified to remove it, shall be a separate offense.

(2) Any person who violates KRS 212.715 or any rule or regulation adopted by any ***consolidated local government,*** city, county, or city-county board of health, except as otherwise provided by subsection (3) of this section for counties containing cities of the first class ***or consolidated local government***, shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100) for each day the violation continues.

(3) The violation of any health regulation promulgated by the city-county board of health or of any order made by the board under KRS 212.350 to 212.620, directing the abatement of a nuisance, source of filth or cause or probable cause of sickness, is hereby declared to be a misdemeanor, and any person, firm or corporation, or member of a firm or officer or director of a corporation, upon conviction thereof shall be fined not less than five dollars ($5) nor more than one hundred dollars ($100) for each such offense. If any offense is continued for more than one (1) day, each day upon which such offense occurs or is continued shall be considered and constitute a separate offense and a separate fine may be imposed therefor.

(4) Any physician who fails to comply with the provisions of KRS 212.343, upon conviction thereof shall be fined not more than five hundred dollars ($500).

(5) Failure to procure the informed consent of those required to give their consent pursuant to KRS 212.345, prior to performing a nontherapeutic sterilization shall be punishable by imprisonment in the county jail not to exceed one year or a fine not to exceed one thousand dollars ($1,000), or both.

(6) Any physician violating KRS 212.347 shall be imprisoned in the county jail not to exceed one (1) year or shall pay a fine not to exceed one thousand dollars ($1,000), or both.

Section 207. KRS 226.060 is amended to read as follows:

The chief of police of a city of the first class or the chief of police of a county containing a city of the first class***, or the chief of police of a consolidated local government,*** and persons acting by his orders may examine the books of any pawnbroker or his clerk, if they deem it necessary when in search of stolen property. Any person who has in his possession a pawnbroker's ticket issued by a pawnbroker in a city of the first class or in a county containing a city of the first class ***or a consolidated local government*** shall, when accompanied by a policeman or by an order from the chief or captain of police, be permitted to examine property purporting to be pawned by that ticket. No property shall be removed from the possession of any pawnbroker without the process of law required by the existing laws of the state, or the laws and ordinances of the ***local government***[~~city or county~~] regulating pawnbrokers.

Section 208. KRS 230.377 is amended to read as follows:

(1) Other provisions of the Kentucky Revised Statutes notwithstanding, a track may apply to the commission for simulcasting and intertrack wagering dates. Applications shall be submitted in accordance with KRS 230.300. The commission shall not approve the establishment or relocation of a receiving track within a radius of seventy-five (75) miles of a race track duly licensed as of July 15, 1992, without the prior written consent of the licensed track within whose seventy-five (75) mile radius the new receiving track would be located.

(2) On or before November 1 of each year, the commission shall meet and award intertrack wagering dates to all tracks for the entire succeeding calendar year. In a geographic area containing more than one (1) track within a fifty (50) mile radius of another track, intertrack wagering shall be limited to simulcasting and wagering on racing of the same breed of horse as the receiving track was licensed to race on or before July 15, 1998.

(3) The commission shall approve no more than nine (9) tracks for participation in horse racing, intertrack wagering, and simulcasting. Any approval by the commission of a change in location of these tracks shall be subject to the local-approval process contained in KRS 230.380.

(4) A track may by administrative regulation be required to simulcast its races to one (1) or more receiving tracks approved for simulcasting and intertrack wagering, as a prerequisite for the issuance of a license pursuant to KRS 230.300, provided

that:

(a) Each track shall be permitted to exempt one (1) day of racing from simulcasting to both receiving tracks and simulcast facilities, at its discretion;

(b) Tracks in a county containing a city of the first class ***or a consolidated local government*** and tracks in an urban-county government shall not be required to simulcast to each other or to any other facility in those counties. This provision shall not be construed as requiring tracks within the same county to simulcast to each other; and

(c) In the absence of a contract between a host track and a receiving track, the commission shall be split as provided for in KRS 230.378(3).

(5) A track may receive simulcasts and conduct interstate wagering thereon subject to the following limitations which shall be in addition to the limitations set forth in KRS 230.3771:

(a) A track licensed to conduct thoroughbred racing may receive simulcasts and conduct interstate wagering on all thoroughbred horse races designated as graded stakes races by the Graded Stakes Committee of the Thoroughbred Owners and Breeders Association, Inc., without further consents or approvals.

(b) A track licensed to conduct harness racing may receive simulcasts and conduct interstate wagering on all harness horse races (both final and elimination) having a final purse in excess of seventy-five thousand dollars ($75,000) without further consents or approvals.

(c) A track which applies to the commission to receive an interstate race of a different breed than the breed for which it is licensed by the commission shall receive any simulcast of an interstate race through the intertrack wagering system upon approval by the commission.

(d) A track may receive simulcasts of special event races conducted in other states or foreign countries which are determined by the commission to be of sufficient national or international significance or interest to warrant interstate wagering and if the simulcast of these races has been approved by the Kentucky Thoroughbred Owners and Breeders Association, Inc., the Kentucky Division of the Horseman's Benevolent and Protective Association, for thoroughbred races, and the Kentucky Harness Horsemen's Association for harness racing, and any track conducting live horse races of the same breed at the same time as the simulcast race.

(e) A track may also receive simulcasts and conduct interstate wagering on thoroughbred horse races other than those described in paragraphs (a) and (d) of this section if the simulcast of these races has been approved by the Kentucky Thoroughbred Owners and Breeders Association, Inc., and the Kentucky Horsemen's Benevolent and Protective Association, for thoroughbred races, and the Kentucky Harness Horsemen's Association, or its successor, for harness racing.

(f) The consent required by paragraph (e) of this subsection or by subsections (1)(g) and (2)(g) of KRS 230.3771 shall not be withheld:

1. For any reason not specifically related to financial harm to live horse racing; or

2. As a condition to the granting of any contractual or other concession not specifically related to the effects of interstate simulcasting on live horse racing in this Commonwealth, taken as a whole.

(g) A host track located in this state may receive simulcasting of not more than two (2) full cards of racing from another state, if both tracks race horses of the same breed and if:

1. The race date was previously granted by the Kentucky Racing Commission to conduct live racing at the track located in this state;

2. Live racing was canceled due to weather conditions; and

3. The consent required by subsection (5)(d) of this section is obtained.

(h) The in-state track receiving the simulcast specified in paragraph (g) of this subsection shall offer that simulcast to all participating tracks and simulcast facilities in the intertrack wagering system.

(i) All interstate simulcasting shall be conducted in accordance with applicable federal laws.

(6) The commission may promulgate necessary and reasonable administrative regulations for the purpose of administering the conduct of intertrack or interstate wagering and regulating the conditions under which wagering shall be held and conducted. Administrative regulations shall provide for the prevention of practices detrimental to the public interest and to impose penalties for violations. All administrative regulations shall be in conformity with the provisions of KRS Chapter 13A, KRS 138.510, and this chapter.

(7) Subsections (2) and (3) of this section shall apply only to intertrack wagering dates awarded for calendar year 1993 and thereafter, and any unresolved intertrack wagering dates for calendar year 1992 shall be awarded pursuant to applicable provisions of law in effect immediately prior to March 30, 1992.

Section 209. KRS 238.555 is amended to read as follows:

(1) No person shall operate a charitable gaming facility unless the person is licensed under the provisions of this chapter. The department shall charge a license fee not to exceed two thousand five hundred dollars ($2,500). Specific license fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulation and based on the number of

sessions which the facility holds per week or other applicable factors or combination of factors. Charitable gaming may be conducted in a charitable gaming facility only by a licensed charitable organization in accordance with the provisions of this chapter.

(2) In the application process, an applicant for a charitable gaming facility license shall submit the following information:

(a) The address of the facility;

(b) A description of the facility to include square footage of the gaming area, capacity levels, and available parking;

(c) The names, addresses, dates of birth, and Social Security numbers of all individuals employed by or contracted with the applicant to manage the facility or provide other authorized services;

(d) The name, address, date of birth, and Social Security number of any individual who has a ten percent (10%) or greater financial interest in the facility;

(e) A copy of the lease agreement used by the applicant; and

(f) Any other information the department deems appropriate.

(3) No owner, officer, employee, or contractee of a licensed charitable gaming facility or an affiliate, or any member of the immediate family of any officer, employee, or contractee of a licensed charitable gaming facility or an affiliate shall, concerning a lessee:

(a) Manage or otherwise be involved in the conduct of charitable gaming;

(b) Provide bookkeeping or other accounting services related to the conduct of charitable gaming;

(c) Handle any moneys generated in the conduct of charitable gaming;

(d) Advise a licensed charitable organization on the expenditure of net receipts;

(e) Provide transportation services in any manner to patrons of a charitable gaming activity;

(f) Provide advertisement or marketing services in any manner to a licensed charitable organization;

(g) Provide, coordinate, or solicit the services of personnel or volunteers in any manner;

(h) Influence or require a licensed charitable organization to use a certain distributor or any particular gaming supplies; or

(i) Donate or give any prize to be awarded in the conduct of charitable gaming.

(4) A licensed charitable gaming facility shall execute a lease agreement with each licensed charitable organization that desires to conduct charitable gaming at the facility. The licensed charitable gaming facility shall agree in the lease to provide gaming space, utilities, insurance for the premises, parking, tables and chairs, and other nongaming equipment necessary for the conduct of charitable gaming, adequate storage space, security, and janitorial services. The costs of the goods and services provided shall be itemized in the lease. A licensed charitable organization may elect to provide for itself any of the goods and services that a charitable gaming facility is required to provide under this subsection, provided these arrangements are clearly noted in the lease agreement, and provided the total compensation to be paid the charitable gaming facility is reduced commensurate with the cost of the goods and services as itemized in the lease. The amount of rent, goods, and services charged shall be reasonable and shall be based on prevailing market values in the general locality for the goods and services to be provided. Rent shall not be based in whole or in part, on a percentage of gross receipts or net proceeds derived from the conduct of charitable gaming or by reference to the number of people in attendance. The department by administrative regulation may establish standards for the determination of prevailing market values. A copy of each signed lease agreement shall be filed with the department. The provisions of this subsection shall apply to any lease agreement for a facility where charitable gaming is to be conducted, whether or not it is with a licensed charitable gaming facility.

(5) The number of bingo sessions conducted at a charitable gaming facility shall be limited to the following:

(a) No more than eighteen (18) sessions per week if the charitable gaming facility is located in a city of the first class, in a city of the second class, in an urban-county***, in a consolidated local government,*** or charter county government, or in a county containing a city of the first class or second class;

(b) No more than eight (8) sessions per week if the charitable gaming facility is located in a city of the third class, fourth class, fifth class, or sixth class, or in a county that does not contain a city of the first class or second class.

(6) A licensed charitable gaming facility shall report at least quarterly to the department and shall provide any information concerning its operation that the department may require.

(7) A charity fundraising event at which special limited charitable games are played may be conducted at a licensed charitable gaming facility, but no licensed charitable gaming facility shall be permitted to hold more than one (1) such event per week or more than seven (7) per year.

(8) A licensed charitable gaming facility shall conspicuously display a sign bearing the name and the license number of the charitable organization that is conducting charitable gaming activities in the facility.

(9) The license to operate the charitable gaming facility shall be prominently displayed on or in the premises where charitable gaming activity is being conducted, in a conspicuous location that is readily accessible to gaming patrons as well as

employees of the department, law enforcement officials, and other interested officials.

Section 210. KRS 241.075 is amended to read as follows:

(1) The State Alcoholic Beverage Control Board shall, for the purpose of regulating the location of retail package liquor and retail drink licenses in cities of the first class ***or consolidated local governments***, divide such cities ***or consolidated local governments*** into "downtown business areas" and "combination business and residential areas."

(2) No retail package liquor or retail drink license shall be granted or issued to any licensee who proposes to sell retail package liquor or liquor by the drink at a location within seven hundred (700) feet of the location of any similar establishment in any combination business and residential area, nor shall such license be granted or issued to any licensee who proposes to operate at a location in a combination business and residential area within seven hundred (700) feet of a similar establishment located in a downtown business area. This section shall not affect location of such establishments in downtown business areas of such cities ***or consolidated local governments***.

(3) The distance between location of similar establishments as prescribed by this section shall be measured by following the shortest route of ordinary pedestrian travel along public thoroughfares from the nearest point of any present location of any such similar place of business to the nearest point of any proposed location of any such place of business. The measurement shall be taken from the entrance of the existing licensed premises to the entrance of any proposed location.

(4) The location of all establishments licensed to sell at retail distilled spirits by the package or by the drink, or both, on June 17, 1954 shall not be affected by the terms of this section and this section shall not apply to existing licensed locations or to the renewal of licenses therefor, or to transfers thereof. The distance limitation prescribed by this section shall not affect any existing licensed location, nor the right of the owner thereof to renew or transfer the license for such location. The location of any such existing license shall not be transferred to a new location in violation of this section, except that the location of any presently existing license or renewal thereof in case of destruction of property or loss of lease through failure of the landlord to renew such lease may be transferred to a location which is not closer than half the distance between the existing licensed premises and the nearest similar licensed premises.

Section 211. KRS 241.160 is amended to read as follows:

The legislative body of any city of the first, second, third or fourth class ***or a consolidated local government*** in which traffic in alcoholic beverages is not forbidden by KRS Chapter 242 shall by ordinance create the office of city alcoholic beverage control administrator, or shall assign the duties of this office to a presently established city office.

Section 212. KRS 241.170 is amended to read as follows:

(1) The city administrator in each city of the first class ***or the administrator in a consolidated local government***, and such investigators and clerks as are deemed necessary for the proper conduct of his office, shall be appointed by the mayor. The city administrator in each city of the first class ***or the administrator in a county containing a consolidated local government***, and his investigators, shall have full police powers of peace officers, and their jurisdiction shall be coextensive with ***boundaries of the***[~~such~~] city ***of the first class or the boundaries of the county in a county containing a consolidated local government***. They may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant. ***If any city of the second, third, or fourth class in a county containing a consolidated local government appoints its own administrator under KRS 241.160, the administrator of a consolidated local government in that county shall have jurisdiction over only that portion of the county which lies outside the corporate limits of such a city, unless the department determines that the city does not have an adequate police force of its own or pursuant to KRS 70.540, 70.150, 70.160, and 70.170.***

(2) The city administrator in each city of the second, third or fourth class shall be appointed by the city manager if there is one. If there is no city manager, the city administrator shall be appointed by the mayor.

(3) No person shall be ***an***[~~a city~~] administrator, an investigator***,*** or an employee of the city ***or a consolidated local government*** under the supervision of the[~~ city~~] administrator, who would be disqualified to be a member of the board under KRS 241.100.

Section 213. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

(1)	Distiller's license, per annum	$2,500.00
(2)	Rectifier's license, per annum	$2,500.00
(3)	Blender's license, per annum	$2,500.00
(4)	Vintner's license, per annum	$1,000.00
(5)	Small winery license, per annum	$100.00
	(a) Small winery off-premises retail license, per annum	$25.00
(6)	Wholesaler's license, per annum	$2,000.00
(7)	Retail package license, per annum:	
	(a) In counties containing cities of the first class ***or a consolidated local government***	$800.00

	(b)	In counties containing cities of the second class	$700.00
	(c)	In counties containing cities of the third class	$600.00
	(d)	In counties containing cities of the fourth class	$500.00
	(e)	In all other counties	$400.00
(8)		Retail drink license, motel drink license, restaurant drink license, or supplemental bar license, per annum:	
	(a)	In counties containing cities of the first class ***or a consolidated local government***	$1,000.00
	(b)	In counties containing cities of the second class	$700.00
	(c)	In counties containing cities of the third class	$600.00
	(d)	In counties containing cities of the fourth class	$500.00
	(e)	The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.	
(9)		Transporter's license, per annum	$100.00
(10)		Dining car license, per annum	$100.00
(11)		Special nonbeverage alcohol vendor's license, per annum	$50.00
(12)		Special industrial alcohol license, per annum	$50.00
(13)		Special nonindustrial alcohol license, per annum	$50.00
(14)		Special agent's or solicitor's license, per annum	$25.00
(15)		Special storage or warehouse license and bottling house storage license, per annum	$500.00
(16)		Special temporary liquor license, per event	$100.00
(17)		Special private club license, per annum	$300.00

The fee for each special private club license shall be the fee set out in this subsection; however, there shall be no charge for each special private club license issued in excess of six (6) that is issued to the same licensee at the same premises.

(18)		Special Sunday retail drink license, per annum	$500.00
(19)		Nonresident, special agent or solicitor's license, per annum	$100.00
(20)		Transport permit, nonresident license, per annum	$100.00
(21)		Through transporter's license, per annum	$100.00
(22)		Freight forwarder's license, per annum	$100.00
(23)		Restaurant wine license, per annum	$500.00
(24)		Farm winery license, per annum	$100.00
	(a)	Farm winery, off-premises retail outlet license, per annum	$25.00
(25)		Special temporary wine license, per event	$50.00
(26)		Caterer's license, per annum	$800.00
(27)		Souvenir retail liquor license, per annum	$500.00
(28)		Special temporary distilled spirits and wine auction license, per event	$100.00
(29)		Airport drink license, per annum	$1,000.00
(30)		Convention center or convention hotel complex license, per annum	$5,000.00
(31)		Extended hours supplemental license, per annum	$2,000.00
(32)		Horse race track license, per annum	$2,000.00
(33)		Automobile race track license, per annum	$2,000.00
(34)		Air or rail system license, per annum	$2,000.00
(35)		Riverboat license, per annum	$1,000.00
(36)		Bottling house license, per annum	$1,000.00
(37)		Hotel in-room license, per annum	$200.00
(38)		Bonded warehouse license, per annum	$1,000.00
(39)		Air transporter liquor license, per annum	$500.00

(40) Sampling license, per annum $100.00

(41) Replacement or duplicate license $25.00

(42) Other special licenses the board finds necessary for the proper regulation and control of the traffic in distilled spirits and wine and provides for by administrative regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

A nonrefundable application fee of fifty dollars ($50) shall be charged to process each new application under this section, except for subsections (5), (9), (11), (12), (13), (14), (16), (19), (20), (21), (22), (24), (25), (28), and (41). The application fee shall be applied to the licensing fee if the license is issued; otherwise it shall be retained by the department.

Section 214. KRS 243.050 is amended to read as follows:

(1) The department may issue a railroad system license to a railroad company upon the payment of the required fee. This license tax shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages.

(2) The department may issue a commercial airlines system license to a commercial airlines system or charter flight system upon the payment of the required fee. This license fee shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages and the license may be renewed annually. The license shall authorize the licensee to sell distilled spirits and wine by the drink and by miniature bottle, and malt beverages, upon regularly-scheduled or charter flights of the licensee, in and out of the State of Kentucky. The license shall authorize the licensee to store alcoholic beverages for retail sale at a location or locations, if operating from more than one airport in Kentucky, as designated on the license application.

(3) The department may issue a transporter's license to a commercial airline system, a charter flight system, or a commercial cargo system, upon the payment of the required fee. This license may be renewed annually. The license shall authorize the licensee to transport distilled spirits and wine and malt beverages, into and out of the State of Kentucky, upon regularly-scheduled or charter flights of the licensee. The license shall authorize, for the purpose of transportation, the storage of alcoholic beverages at a location or locations, if operating from more than one airport in Kentucky, as designated on the license application. This license shall authorize an airline to transport if both the consignor and consignee in each case are authorized by the laws of the states of their residence to sell, purchase, ship, or receive the alcoholic beverages.

(4) The department may issue a convention center or convention hotel complex license for the retail sale of distilled spirits, wine, and malt beverages for consumption on the premises to a convention center or hotel having seating capacity of one thousand (1,000) or more persons. The license shall cover all alcoholic beverage sales on the premises, except that a separate hotel in-room service license shall be required, where applicable. An extended supplement license under subsection (5) of this section may also be issued where applicable. The convention center or convention hotel complex license shall be a nonquota license and shall not be transferable to other premises. The provisions of this subsection shall not apply to convention center licenses or the renewal thereof, other than those in a city of the first class or a county containing a city of the first class ***or a consolidated local government***, if the original license was issued prior to July 15, 1998.

(5) Where it is determined by the department to be in the best interest of promoting tourism, conventions, and the economic development of Kentucky or any part thereof, the department may issue a supplemental license for the retail sale of alcoholic beverages by the drink at convention centers, at horse race tracks licensed to conduct a race meeting under KRS Chapter 230, at commercial airports through which more than five hundred thousand (500,000) passengers arrive or depart annually, and at automobile race tracks having a seating capacity of at least thirty thousand (30,000) people. Upon application by the holder of a retail alcoholic beverage license at a convention center, convention hotel complex, horse race track, automobile race track, meeting the requirements of this subsection, or commercial airport as provided above, the department may establish the days when the supplemental license will be valid at the specific location, including Sundays after 1 p.m. The supplemental license fee shall be established, and shall be in addition to all other licenses and fees due by the holder in connection with the retailing of alcoholic beverages. The department may, by administrative regulation or special conditions of the supplemental permit, establish such restrictions on the use of the license as will insure that it will be primarily for the benefit of the convention business, the horse racing industry, passengers at large commercial airports, and the automobile racing industry.

Section 215. KRS 243.060 is amended to read as follows:

(1) The fiscal court of each county ***or a consolidated local government*** in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may impose license fees for the privilege of trafficking in alcoholic beverages. These licenses may be issued by the county ***or consolidated local government*** administrator. The license fees shall not exceed the following:

  (a) Retail package licenses, per annum:

    1. In counties containing cities of the first class ***or a consolidated local government*** $1,200.00
    2. In counties containing cities of the second class $1,000.00
    3. In counties containing cities of the third class $800.00
    4. In counties containing cities of the fourth class $600.00

5. In all other counties $400.00

(b) Retail drink license, motel drink license, restaurant drink license, or supplemental bar license, per annum:

1. In counties containing cities of the first class ***or a consolidated local government*** $1,600.00
2. In counties containing cities of the second class $1,000.00
3. In counties containing cities of the third class $800.00
4. In counties containing cities of the fourth class $600.00

(c) Special temporary liquor license, per event:

1. In counties containing cities of the first class ***or a consolidated local government*** $266.66
2. In counties containing cities of the second class $166.66
3. In counties containing cities of the third class $133.34
4. In counties containing cities of the fourth class $100.00

(d) Restaurant wine license, per annum:

1. New applicants $600.00
2. Applicants for renewal $400.00

(e) Special temporary wine license, per event $50.00

(f) Special private club license, per annum $300.00

(g) Special Sunday retail drink license, per annum $300.00

(h) Retail malt beverage license, per annum:

1. New applicants $400.00
2. Applicants for renewal $150.00

(i) Special temporary malt beverage license, per event $25.00

(2) Any amount paid to any city within the county as a license fee for the same privilege for the same year may be credited against the county license fee.

(3) If any part of this section is held invalid, all of this section and of KRS 243.600 shall also be considered invalid.

Section 216. KRS 243.070 is amended to read as follows:

The[~~ city~~] legislative body of any city ***or a consolidated local government*** in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may impose license fees for the privilege of manufacturing and trafficking in alcoholic beverages. Only those licenses set out in this section shall be issued, and the fee for each shall not exceed the specified amount:

(1) Distilled spirit licenses as set forth in KRS 243.030:

(a) Distiller's license, per annum $500.00

(b) Rectifier's license, per annum $3,000.00

(c) Blender's license, per annum $3,000.00

(d) Wholesaler's distilled spirits and wine license, per annum $3,000.00

(e) Distilled spirits and wine retail package license, per annum:

1. In counties containing cities of the first class ***or a consolidated local government*** $1,200.00
2. In counties containing cities of the second class $1,000.00
3. In counties containing cities of the third class $800.00
4. In counties containing cities of the fourth class $600.00
5. In all other counties $400.00

(2) Distilled spirits and wine retail drink license, motel drink license, airport drink license, restaurant drink license, or supplemental bar license, per annum:

(a) In counties containing cities of the first class ***or a consolidated local government*** $1,600.00

(b) In counties containing cities of the second class $1,000.00

(c) In counties containing cities of the third class $800.00

(d) In counties containing cities of the fourth class $600.00

(3) Distilled spirits and wine special temporary liquor license, per event:

(a) In counties containing cities of the first class ***or a consolidated local government*** $266.66

(b) In counties containing cities of the second class $166.66

(c) In counties containing cities of the third class $133.33

	(d) In counties containing cities of the fourth class	$100.00
(4)	Special temporary wine license, per event	$50.00
(5)	Distilled spirits and wine special temporary auction license, per event	$200.00
(6)	Special private club license, per annum	$300.00
(7)	Distilled spirits and wine special Sunday retail drink license, per annum	$300.00
(8)	Extended hours supplemental license, per annum	$2,000.00
(9)	Nonresident special agent or solicitor's license, per annum	$40.00
(10)	Restaurant wine license, per annum:	
	(a) New applicants	$600.00
	(b) Applicants for renewal	$400.00
(11)	Caterer's license, per annum	$800.00
(12)	Riverboat license, per annum	$1,200.00
(13)	Horse race track license, per annum	$2,000.00
(14)	Convention center or convention hotel complex license, per annum	$2,000.00
(15)	Bottling house distilled spirits license or wine storage license, per annum	$1,000.00
(16)	Automobile race track license, per annum	$2,000.00
(17)	Souvenir retail liquor license, per annum	$1,000.00
(18)	Malt beverage licenses as follows:	
	(a) Brewer's license, per annum	$500.00
	(b) Microbrewery license, per annum	$500.00
	(c) Malt beverage distributor's license, per annum	$400.00
	(d) Retail malt beverage license, per annum	$200.00
	(e) Special temporary retail malt beverage license, per event	$25.00
	(f) Malt beverage brew-on-premises license, per annum	$100.00

Section 217. KRS 277.050 is amended to read as follows:

Any corporation organized under the laws of this or any other state for the purpose of constructing, maintaining or operating union railway stations for passengers or freight may, except in cities of the first class ***or in a consolidated local government***, acquire by condemnation, in the manner prescribed by the Eminent Domain Act of Kentucky, such lands and material in this state as it deems to be reasonably necessary for the purpose of constructing, maintaining and operating such union railway stations and the usual or proper tracks, platforms, sheds, approaches and other appurtenances thereto.

Section 218. KRS 278.650 is amended to read as follows:

(1) If a utility proposes construction of an antenna tower for cellular telecommunications services or personal communications services which is to be located within a county containing a city of the first class ***or a consolidated local government***, then the utility shall submit the proposal to the planning commission of the affected planning unit prior to making application to the commission for a certificate of public convenience and necessity as required by KRS 278.020(1). The commission shall not grant a certificate of convenience and necessity in this situation until a final action on the proposal has been taken by the planning commission of the affected planning unit, or until the sixty (60) day time period set forth in KRS 100.324(5) has expired, whichever comes first.

(2) If a planning commission rejects a proposal to construct an antenna tower, the commission may override the decision of the planning commission and issue a certificate of convenience and necessity for construction of the cellular or personal communications services antenna tower, if it determines that there is no acceptable alternate site, and that the public convenience and necessity requires the proposed construction.

(3) Any party aggrieved by the final action of the Public Service Commission under subsections (1) and (2) of this section shall appeal from the action to the Franklin Circuit Court. The appeal shall be filed within thirty (30) days after the final action by the Public Service Commission. All final actions of the Public Service Commission which have not been appealed within thirty (30) days shall not be subject to judicial review.

(4) If a utility proposes construction of an antenna tower for cellular telecommunications services or personal communications services which is to be located outside the area of a county containing a city of the first class ***or a consolidated local***

government, then the commission may also take into account in its deliberations the character of the general area concerned, and the likely effects of the installation on nearby land uses and values.

Section 219. KRS 278.665 is amended to read as follows:

(1) The commission shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish the minimum content of a uniform application, provided under KRS 100.985(5), for a certificate of convenience and necessity to construct cellular antenna towers, and the procedures to carry out the commission's responsibilities under KRS 100.987.

(2) The commission, in establishing the public notice requirements of a uniform application as provided for in subsection (1) of this section, shall distinguish between areas of low and high population densities. At a minimum, when the site of the proposed cellular antenna tower is outside of an incorporated city or within a rural service area in an urban-county, the commission shall require that every person who owns property contiguous to the property where the proposed cellular antenna tower will be located receives notice by certified mail, return receipt requested, of the proposed construction, given the commission docket number under which the application will be processed, and informed of the opportunity to intervene in the application. The provisions of this subsection shall not apply to unincorporated areas within a county containing a city of the first class ***or a consolidated local government***.

Section 220. KRS 279.310 is amended to read as follows:

As used in KRS 279.320 to 279.600, unless the context requires otherwise:

(1) "Cooperative" means any corporation organized under KRS 279.320 to 279.600 or which becomes subject to those sections in the manner provided therein.

(2) "Person" means any natural person, firm, association, corporation, business trust or partnership.

(3) As used in this chapter, the term "telephone service" shall include in its meaning communications services of all kinds allowed to any other telephone utility, authorized by regulatory agency and with some unregulated, that being the transmission of voice, data, sounds, signals, pictures, writing, or signs of all kinds, by use of wire, radio, light, electro-magnetic impulse, broadband (wideband) spectrum, or any other transmission mode and facility used in rendition of such services; but shall not include in their meaning message telegram service, or radio broadcasting services or facilities within the meaning of Section 153(O) of the Federal Communications Act of 1934, as amended.

(4) "Acquire" means to construct, purchase, obtain by lease, devise, gift or by eminent domain, or to obtain by any other lawful means.

(5) "Board" means the board of trustees of a corporation formed under KRS 279.320 to 279.600.

(6) "Federal agency" means and includes the United States, the President of the United States, and all federal authorities, instrumentalities and agencies in the ordinary sense.

(7) "Improve" means to construct, reconstruct, extend, enlarge, alter, better or repair.

(8) "Member" means and includes each person signing the articles of incorporation of a corporation formed under KRS 279.320 to 279.600, each person later admitted to membership according to law or according to the articles of incorporation or bylaws of the corporation, and each common stockholder in a corporation, having capital stock, organized under KRS 279.320 to 279.600.

(9) "Obligations" means and includes negotiable bonds, notes, debentures, interim certificates or receipts and all other evidences of indebtedness either issued or the payment thereof assumed by a corporation organized under KRS 279.320 to 279.600.

(10) "System" means and includes any plant, works, facilities and properties, and all parts thereof and appurtenances thereto, used or useful in the operation and maintenance of telephone communication service.

(11) "Rural area" shall be deemed to mean any area of this state not included within the boundaries of any incorporated or unincorporated city ***or of a consolidated local government***,~~[village or borough]~~ having a population in excess of fifteen hundred (1,500) inhabitants.

(12) "Telephone company" means any natural person, firm, association, corporation or partnership owning, leasing or operating any line, facility or system used in the furnishing of telephone service within this state.

Section 221. KRS 304.8-060 is amended to read as follows:

(1) The custodian of insurance securities shall be appointed by the Governor, in accordance with laws governing other executive appointments. He shall receive a monthly salary to be fixed by the Governor in accordance with the provisions of KRS 64.640, but to be paid out of custodial expense funds provided by insurers pursuant to KRS 304.8-190.

(2) The custodian shall receive in his official capacity, all deposits made with him pursuant to this code.

(3) The custodian shall be available at all reasonable times in the branch office of the Department of Insurance, maintained in a city of the first class ***or a consolidated local government***.

Section 222. KRS 304.8-090 is amended to read as follows:

(1) The commissioner shall designate at least one (1) but not more than five (5) banks or trust companies in each county of this state containing a city of the first class ***or a consolidated local government*** and such other banks as proposed by the insurer and approved by the commissioner whose vaults shall be used as depositories for assets of insurers deposited under

this code.

(2) Each insurer depositing assets shall, at its own expense, rent space therefor in the vaults of the banks or trust companies so designated.

Section 223. KRS 345.010 is amended to read as follows:

When used in this chapter:

(1) "Public employer" means a city of the first class ***or a consolidated local government,*** or any city that petitions the secretary of the Labor Cabinet to be included by this chapter;

(2) "Firefighter" means an employee of the public employer engaged in serving the public by providing fire protection, including those covered by KRS Chapter 95;

(3) "Labor organization" means any chartered labor organization of any kind in which firefighters participate and which exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages, rate of pay, hours of employment, or conditions of employment;

(4) "Exclusive representative" means the labor organization which has been designated by the State Labor Relations Board as the representative of the majority of firefighters in appropriate units or has been so recognized by the public employer;

(5) "Board" means the State Labor Relations Board;

(6) "Person" includes one (1) or more individuals, labor organizations, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers;

(7) "Secretary" means the secretary of the Labor Cabinet of the Commonwealth of Kentucky.

Section 224. KRS 381.440 is amended to read as follows:

Whenever the owner of a lot in a city of the first class ***or a consolidated local government*** proposes to excavate upon the lot to a depth greater than ten feet below the top of the curbstone of the sidewalk adjoining the lot, shall, at his own expense, protect any wall on adjoining land near the excavation from injury from such excavation, if the necessary license is afforded him to enter upon the adjoining land for that purpose, but not otherwise.

Section 225. KRS 393.100 is amended to read as follows:

Any property paid into any court of this state for distribution and the increments thereof, shall be presumed abandoned if not claimed within five (5) years after the date of payment into court or as soon after the five (5) year period, as all claims filed in connection with it, have been disallowed or settled by the court. Provided, however, that any property paid into any court of this state for distribution and the increments thereof, which may be presumed abandoned as provided in this chapter and which shall have been recovered or procured upon the relationship or through the instrumentality of any municipality ***or a consolidated local government*** of this state, shall revert to the general fund of such municipality ***or a consolidated local government*** and at any time after the five (5) year period has expired, after the date of the payment into the court, the municipality ***or a consolidated local government*** may by petition filed against the custodian of such funds, in the court in which said property is located, request the payment thereof to said municipality ***or a consolidated local government*** and the judge of said court shall order the custodian thereof, to pay the entire sum to said municipality ***or a consolidated local government***. Provided, further that before entering judgment, ordering said sum so paid, the court shall require that notice be published at least once in a newspaper of general bona fide circulation in the county, stating the intention of the court to award such sum to the municipality ***or a consolidated local government*** and final judgment shall not be entered, until fifteen (15) days shall have elapsed from the date of such publication. At any time prior to the final judgment, the court may consider any bona fide claims made by claimants to said property or any part thereof. However, thereafter, any and all claimants shall be forever barred therefrom.

Section 226. KRS 416.560 is amended to read as follows:

(1) Notwithstanding any other provision of the law, a department, instrumentality or agency of ***a consolidated local government,*** city, county, or urban-county government, other than a waterworks corporation the capital stock of which is wholly owned by a city of the first class ***or a consolidated local government***, having a right of eminent domain under other statutes shall exercise such right only by requesting the governing body of the ***consolidated local government,*** city, county, or urban-county to institute condemnation proceedings on its behalf. If the governing body of the ***consolidated local government,*** city, county, or urban-county agrees, it shall institute such proceedings under KRS 416.570, and all costs involved in the condemnation shall be borne by the department, instrumentality, or agency requesting the condemnation.

(2) If any department, instrumentality or agency of a ***consolidated local government,*** city, county, or urban-county government, other than a waterworks corporation the capital stock of which is wholly owned by a city of the first class ***or a consolidated local government***, operates in more than one (1) governmental unit, it shall request the governing body of the ***consolidated local government,*** city, county, or urban-county government wherein the largest part of the individual tract of the property sought to be condemned lies, to institute condemnation proceedings on its behalf.

(3) A department, instrumentality, or agency of the Commonwealth of Kentucky, other than the Transportation Cabinet and local boards of education, having a right of eminent domain under other statutes shall exercise such right only by requesting the Finance and Administration Cabinet to institute condemnation proceedings on its behalf. If the Finance and Administration Cabinet agrees, it shall institute such proceedings under KRS 416.570, and all costs involved in the

condemnation shall be borne by the department, instrumentality, or agency requesting the condemnation.

(4) Prior to the filing of the petition to condemn, the condemnor or its employees or agents shall have the right to enter upon any land or improvement which it has the power to condemn, in order to make studies, surveys, tests, sounding, and appraisals, provided that the owner of the land or the party in whose name the property is assessed has been notified ten (10) days prior to entry on the property. Any actual damages sustained by the owner of a property interest in the property entered upon by the condemnor shall be paid by the condemnor and shall be assessed by the court or the court may refer the matter to commissioners to ascertain and assess the damages sustained by the condemnee, which award shall be subject to appeal.

Section 227. KRS 424.130 is amended to read as follows:

(1) Except as otherwise provided in KRS 424.110 to 424.370 and notwithstanding any provision of existing law providing for different times or periods of publication, the times and periods of publications of advertisements required by law to be made in a newspaper shall be as follows:

(a) When an advertisement is of a completed act, such as an ordinance, resolution, regulation, order, rule, report, statement, or certificate and the purpose of the publication is not to inform the public or the members of any class of persons that they may or shall do an act or exercise a right within a designated period or upon or by a designated date, the advertisement shall be published one (1) time only and within thirty (30) days after completion of the act. However, a failure to comply with this paragraph shall not subject a person to any of the penalties provided by KRS 424.990 unless such failure continues for a period of ten (10) days after notice to comply has been given him by registered letter.

(b) When an advertisement is for the purpose of informing the public or the members of any class of persons that on or before a certain day they may or shall file a petition or exceptions or a remonstrance or protest or objection, or resist the granting of an application or petition, or present or file a claim, or submit a bid, the advertisement shall be published at least once, but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the occurrence of the act or event.

(c) Excepting counties with a city of the first class ***or a consolidated local government***, when an advertisement is for the purpose of informing the public and the advertisement is of a sale of property or is a notice of delinquent taxes, the advertisement shall be published once a week for three (3) successive weeks. For counties containing a city of the first class ***or a consolidated local government***, when an advertisement is for the purpose of informing the public and the advertisement is a notice of delinquent taxes, or notice of the sale of tax claims, the advertisement shall be published once, preceded by a one-half (1/2) page notice of advertisement the preceding week. The provisions of this paragraph shall not be construed to require the advertisement of notice of delinquent state taxes which are collected by the state.

(d) Any advertisement not coming within the scope of paragraph (a), (b) or (c) of this subsection, such as one for the purpose of informing the public or the members of any class of persons of the holding of an election, or of a public hearing, or of an examination, or of an opportunity for inspection, or of the due date of a tax or special assessment, shall be published at least once but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the occurrence of the act or event, or in the case of an inspection period, the inspection period commences.

(e) If the particular statute requiring that an advertisement be published provides that the day upon or by which, or the period within which, an act may or shall be done or a right exercised, or an event may or shall take place, is to be determined by computing time for the day of publication of an advertisement, the advertisement shall be published at least once, promptly, in accordance with the statute, and the computation of time shall be from the day of initial publication.

(2) This section is not intended to supersede or affect any statute providing for notice of the fact that an adversary action in court has been commenced.

Section 228. KRS 424.220 is amended to read as follows:

(1) Excepting officers of a city of the first class ***or a consolidated local government***, a county containing such a city ***or consolidated local government***, a public agency of such a city***, consolidated local government,*** or county, or a joint agency of such a city***, consolidated local government,*** and county, or of a school district of such a city***, consolidated local government,*** or county, and excepting officers of a city of the second class or an urban-county government, every public officer of any school district, city, ***consolidated local government,*** county, or subdivision, or district less than a county, whose duty it is to collect, receive, have the custody, control, or disbursement of public funds, and every officer of any board or commission of a city, ***consolidated local government,*** county or district whose duty it is to collect, receive, have the custody, control, or disbursement of funds collected from the public in the form of rates, charges, or assessments for services or benefits, shall at the expiration of each fiscal year prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by him during the fiscal year just closed, unless he has complied with KRS 424.230. Pursuant to subsections (2) and (3) of KRS 91A.040, each city of the sixth class shall prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by the city which complies with the provisions of this section.

(2) The statement shall show:

(a) The total amount of funds collected and received during the fiscal year from each individual source; and

(b) The total amount of funds disbursed during the fiscal year to each individual payee and the purpose for which the funds were expended.

(3) Only the totals of amounts paid to each individual as salary or commission and public utility bills shall be shown. The amount of salaries paid to all nonelected county employees shall be shown as lump-sum expenditures by category, including, but not limited to, road department, jails, solid waste, public safety, and administrative personnel.

(4) The amount of salaries paid to all teachers shall be shown as a lump-sum instructional expenditure for the school district and not by amount paid to individual teachers. The amount of salaries paid to all other employees of the board shall be shown as lump-sum expenditures by category, including, but not limited to, administrative, maintenance, transportation, and food service. The local board of education and the fiscal court shall have accessible a factual list of individual salaries for public scrutiny and the local board and the fiscal court shall furnish by mail a factual list of individual salaries of its employees to a newspaper qualified under KRS 424.120 to publish advertisements for the district, which newspaper may then publish as a news item the individual salaries of school or county employees.

(5) The officer shall procure and include in or attach to the financial statement, as a part thereof, a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of funds to the credit of the officer making the statement.

(6) The officer shall, except in a city electing to publish its audit in lieu of the financial statement in accordance with KRS 91A.040(6), within sixty (60) days after the close of the fiscal year cause the financial statement to be published in full in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county, or district, as the case may be. Promptly after the publication is made, the officer shall file a written or printed copy of the advertisement with proof of publication, in the office of the county clerk of the county and with the Auditor of Public Accounts. Promptly after the publication is made, the officer shall also file one (1) copy of the financial statement with the Kentucky Department for Local Government.

(7) In lieu of the publication requirements of subsection (6) of this section, the appropriate officer of any municipally-owned electric, gas, or water system may elect to satisfy the requirements of subsection (6) of this section by:

(a) Preparation of a certified audit by a certified public accountant, performed in accordance with generally accepted principles of accounting, for the fiscal year;

(b) Publishing in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county, or district as the case may be, the statement of revenue and expenditures from such audit, together with the statement that the audit report is available for inspection at the offices of the utility; and

(c) Making such audit available for inspection on request of anyone during normal working hours of the utility.

(8) In lieu of the publication requirements of subsection (6) of this section, the appropriate officer of a county may elect to satisfy the requirements of subsection (6) of this section by publishing an audit, prepared in accordance with KRS 43.070 or 64.810, in the same manner that city audits are published in accordance with KRS 91A.040(7).

Section 229. KRS 424.240 is amended to read as follows:

Immediately following the adoption of an annual budget by any county or city other than one of the first class ***or a consolidated local government***, the[~~ county or city~~] clerk shall cause a summary of the budget or the text of the budget ordinance to be advertised for the county***, consolidated local government*** or city by publication in a newspaper.

Section 230. KRS 439.315 is amended to read as follows:

(1) A person placed by a releasing authority on probation, parole, or other form of release subject to supervision by the Department of Corrections and all persons supervised pursuant to KRS 439.560 shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release.

(2) The fees shall be as follows:

(a) For a felony, not less than ten dollars ($10) per month while on active supervision nor more than two thousand five hundred dollars ($2,500) per year.

(b) For a misdemeanor, not less than ten dollars ($10) per month while on active supervision nor more than five hundred dollars ($500) per year, except as provided in subsection (13) of this section.

(3) The releasing authority shall order the fee paid in a lump sum or installments. If the fee is to be paid in a lump sum, the person shall not be released from custody until the fee is paid in full.

(4) Upon the failure of a person to pay an installment on a fee set forth in a release agreement, the releasing authority shall hold a hearing to determine why the installment has not been paid. Failure without good cause to pay an installment pursuant to a release agreement shall be grounds for the revocation of probation, parole, conditional release, or other form of release upon which the person has been released as provided in KRS 533.050.

(5) The releasing authority shall hold a hearing to determine the ability of the defendant to make the payments; and in making this determination, the releasing authority shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution. In counties containing a city of the first class or an urban-

county form of government, the releasing authority may waive the payment of the fee in whole or in part for defendants placed under the supervision of the adult misdemeanant probation and work release program, if it finds that any of the factors in subsection (6) of this section exist.

(6) The releasing authority shall not waive any fee unless the commissioner of the Department of Corrections or his designee petitions the releasing authority in written form for the waiver. The Department of Corrections shall not petition unless:

(a) The offender is a student in a school, college, university, or course of vocational or technical training designed to fit the student for gainful employment. Certification of student status shall be supplied to the releasing authority by the educational institution in which the offender is enrolled. In such case, the fee may be postponed until completion of education but shall be paid thereafter.

(b) The offender has an employment disability, as determined by a physical, psychological, or psychiatric examination acceptable to, or ordered by, the releasing authority.

(7) At any time during the pendency of the judgment or order rendered according to the terms of this section, a defendant may petition the releasing authority to modify or vacate its previous judgment or order on the grounds of change of circumstances with regard to the defendant's ability to pay the fee. The releasing authority shall advise the defendant of this right at the time of the rendering of the judgment or order placing the defendant on probation, parole, or other supervised release.

(8) All sums paid by the defendant pursuant to this section shall be paid into the general fund, except as provided in subsection (13) of this section.

(9) When granting a release of any defendant by way of probation, parole, or otherwise, the releasing authority shall make the payment of this fee a condition of release, unless the fee has been waived, reduced, or delayed as provided in this section. Nonpayment shall be grounds for revocation of the release as provided in KRS 533.050.

(10) The releasing authority, if the Department of Corrections petitions the releasing authority to modify the fee, shall consider the petition and may waive the payment of the fee in whole or in part, delay payment of the fee, increase the fee, or deny the petition.

(11) All fees fixed under the provisions of this section shall be collected by the circuit clerk of the county where the defendant is supervised, except as provided in subsection (13) of this section.

(12) The Department of Corrections and the Division of Probation and Parole shall, for each person released under its supervision, keep an account of all payments made and report delinquencies to the releasing authority.

(13) In a city, county, ***consolidated local government,*** charter county, or an urban-county government, persons placed by a releasing authority on probation, parole, or other release subject to supervision by the adult misdemeanant probation and work release program of the county, city, ***consolidated local government,*** charter county, or urban-county government shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release. The fees shall be assessed by the releasing authority in accordance with the provisions of this section. The fee for a misdemeanant defendant placed under the supervision of an adult misdemeanant probation and work release program of a county, city, ***consolidated local government,*** charter county, or an urban-county government shall be not less than one hundred dollars ($100) nor more than five hundred dollars ($500) per year. All sums paid by the defendant under this subsection shall be paid into the general fund of the county, city, ***consolidated local government,*** charter county, or urban-county government in lieu of the payment specified in subsection (8) of this section. All fees fixed under this subsection shall be collected by the circuit clerk of the county or urban-county involved. The adult misdemeanant probation and work release program of the county, ***consolidated local government,*** city, charter county, or urban-county government shall, for each person released under its supervision, keep an account of all payments made, maintain copies of all receipts issued by the circuit clerk, and report delinquencies to the court.

The Committee Substitute to **HB 659** is as follows:

HB 659, AN ACT relating to consolidated local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

If a cooperative compact exists between a city of the first class and its county prior to the creation of a consolidated local government, upon the establishment of the consolidated local government:

(1) The mayor of the consolidated local government shall assume all appointment authority previously held by the county judge/executive and the mayor of the consolidating governments. Appointments made by the mayor should reflect the diversity of the population within the jurisdiction of the consolidated local government; and

(2) The mayor, in consultation with the legislative council, shall, when authorized by statute, determine which agencies, boards, and commissions created by statute shall require legislative council approval for the appointment of members to such agencies, boards, and commissions. The legislative council shall enact an ordinance setting out the role of the legislative council, if any, in the appointment process for each individual agency, board, and commission created by

statute. Only one (1) agency, board, or commission shall be addressed per ordinance. Such ordinance shall require a vote of the majority of the entire membership of the legislative council for approval and shall be subject to mayoral veto and legislative override pursuant to KRS 67C.105(5)(i) and 67C.103(13)(a); and

(3) The appointment of members to all agencies, boards, and commissions created by ordinance shall be determined by the ordinance creating the agency, board, or commission.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provision to the contrary, any statute which confers any rights, powers, privileges, immunities, or responsibilities upon the county judge/executive in a county formerly containing a city of the first class and presently having a consolidated local government, is hereby deemed to confer such rights, powers, privileges, immunities, and responsibilities upon the mayor of the consolidated local government.

(2) Any statute which confers any rights, powers, privileges, immunities, or responsibilities upon a fiscal court in a county formerly containing a city of the first class and now having a consolidated local government, is hereby deemed to confer such rights, powers, privileges, immunities, and responsibilities upon the officer or officers in whom such functions are vested in the consolidated local government by KRS 67C.103(1) and 67C.105(1), respectively. This provision applies to the general statutes applicable to counties, as well as applying to statutes applicable only within a county formerly containing a city of the first class.

SECTION 3. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise provided by law, any elected officer of a consolidated local government in case of misconduct, incapacity, or willful neglect in the performance of the duties of his or her office may be removed from office by the legislative council, sitting as a court, under oath, upon charges preferred by the mayor or by any five (5) members of the legislative council, or, in case of charges against the mayor, upon charges preferred by not less than ten (10) members of the legislative council. No legislative council member preferring a charge shall sit as a member of the legislative council when it tries that charge.

(2) No elected officer shall be removed without having been given the right to a full public hearing.

(3) A decision to remove a mayor or legislative council member shall require a vote of two-thirds (2/3) of the total number of legislative council members sitting as a court.

(4) Any elected officer removed from office under the provisions of this section may appeal to the Circuit Court and from there to the Court of Appeals. The appeal to the Circuit Court shall be taken and tried in the same manner as civil cases are tried.

(5) No elected officer removed from office under this section shall be eligible to fill the office vacated before the expiration of the term to which the elected member was originally elected.

SECTION 4. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

The territory of a consolidated local government may, as permitted by Section 172A of the Constitution of Kentucky, be divided into service districts. Each service district shall constitute a separate tax district within which the consolidated local government may, upon receipt of a petition signed by a majority of the registered voters in the district as of the last general election, levy and collect taxes in accordance with the kind, type, and character of the services provided by the consolidated local government in each of these service districts. A consolidated local government may abolish or alter service districts, but any expansion of the boundaries of a service district shall require a petition signed by a majority of the registered voters, as of the last election, in the new territory to be included in the service district. Notwithstanding the foregoing provision, a consolidated local government may not create or change the boundaries of a service district if that change would adversely affect the powers or functions of any city, existing taxing district, fire protection district, water district, or any other special taxing or service district of any kind which was in existence on the date the consolidated local government became effective unless such entity consents by resolution adopted by its governing body.

SECTION 5. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) In order to maintain the tax structure, tax rates, or level of services in the area of the consolidated local government formerly comprising the city of the first class, the legislative council of a consolidated local government may provide in the manner described in this chapter for taxes and services within the area comprising the former city of the first class which are different from the taxes and services which are applicable in the remainder of the county. These differences may include differences in tax rates upon the class of property which includes the surface of the land, differences in ad valorem tax rates upon personal property, and differences in tax rates upon insurance premiums.

(2) Any difference in the ad valorem tax rate on the class of property which includes the surface of the land in the portion of the county formerly comprising the city of the first class and in the portion of the county other than that formerly comprising the city of the first class may be imposed directly by the consolidated local government council. Any change in these ad valorem tax rates shall comply with KRS 68.245, 132.010, 132.017, and 132.027 and shall be used for services as provided by KRS 82.085.

(3) If the consolidated local government council determines to provide for tax rates applicable to health insurance premiums and personal property which are different in the area formerly comprising the city of the first class than the rates applicable in the remainder of the county, it shall do so in the following manner. The consolidated local

government council shall by ordinance create a tax district to be known as the "urban service tax district" bounded by the former boundaries of the former city of the first class. The ordinance shall designate the number of members of the board of this taxing district and the manner in which they shall be appointed. The ordinance shall provide that the board of the taxing district shall receive the income derived from the differential in tax rate applicable in the area formerly comprising the city of the first class with respect to personal property, health insurance premiums, or both, and shall contract with the consolidated local government to pay all sums collected to the consolidated local government, in return for the provision of services performed by the consolidated local government within the area formerly comprising the city of the first class which services are in addition to services performed by the consolidated local government in the remainder of the county.

(4) After the initial formation of an urban service taxing district in a consolidated local government, the boundaries of the district may be modified in the following manner. The proposal to alter the boundaries of the urban service taxing district within a consolidated local government may be initiated by:

- ***(a) A resolution enacted by the consolidated local government describing the boundaries of the area to be added to or deleted from the taxing district and duly passed and signed by the mayor not less than one hundred twenty (120) days before the next regularly scheduled election day within the county; or***
- ***(b) A petition signed by a number of qualified voters living within precincts within the area to be added to or deleted from the taxing district equal to ten percent (10%) of the votes cast within each precinct in the last general election for President of the United States and delivered to the clerk of the legislative council more than one hundred twenty (120) days next preceding the next regularly scheduled election day within the county.***

The boundaries so described in either case shall not cross precinct lines. The question of whether the area bounded as described should be added to or deleted from, as the case may be, the urban services taxing district shall then be placed upon the ballot in the precincts in the area to be added or deleted at the next regular election and the question stated on the ballot shall be so phrased that a "Yes" vote shall be cast in favor of making the proposed change and a "No" vote shall be cast to oppose the proposed change. If a majority of those voting in those precincts support the change, then the change in the boundaries of the urban service district shall be implemented.

Section 6. KRS 15A.305 is amended to read as follows:

(1) The Department of Juvenile Justice shall, with available funds, develop and administer a statewide detention program and, as each regional facility is constructed and ready for occupancy, shall, within appropriation limitations, provide for:

- (a) The operation of preadjudication detention facilities for children charged with public offenses; and
- (b) The operation of postadjudication detention facilities for children adjudicated delinquent or found guilty of public offenses.

Funds appropriated for the purposes of this section shall only be used for facilities defined in KRS 15A.200.

(2) In each region in which the Department of Juvenile Justice operates or contracts for the operation of a detention facility, the department shall, within appropriation limitations, develop and administer a program for alternatives to detention that shall provide for:

- (a) The operation of or contracting for the operation of preadjudication alternatives to detention and follow-up programs for children who are before the court and who enter pretrial diversion or informal adjustment programs; and
- (b) The operation of or contracting for the operation of postadjudication alternatives to detention and follow-up programs, including but not limited to community-based programs, mentoring, counseling, and other programs designed to limit the unnecessary use of secure detention and ensure public safety.

(3) The department shall, except as provided in KRS 635.060, charge counties***, consolidated local governments,*** and urban-county governments a per diem not to exceed ninety-four dollars ($94) for lodging juveniles in state-owned or contracted preadjudication facilities.

(4) Detention rates charged by contracting detention facilities shall not exceed the rate in effect on July 1, 1997, subject to increases approved by the department.

(5) The Department of Juvenile Justice shall issue and enforce administrative regulations to govern the following:

- (a) Administration;
- (b) Intake and classification;
- (c) Programs and services;
- (d) Recordkeeping;
- (e) Rules and discipline;
- (f) Transfers;
- (g) Reimbursement rates and conditions; and
- (h) Detention facility rate increases.

(6) No juvenile detention facility or juvenile holding facility shall be taken over, purchased, or leased by the Commonwealth

without prior approval of the fiscal court upon consultation with the jailer in the county where the facility is located. The county, upon consultation with the jailer, may enter into contracts with the Commonwealth for the holding, detention, and transportation of juveniles.

(7) Administrative regulations promulgated under subsection (5) of this section shall specifically identify new requirements of the law which increase the cost of operating a juvenile facility not operated by the Department for Juvenile Justice. The administrative regulations shall identify the amount and source of funding for compliance with the new requirements.

Section 7. KRS 15.760 is amended to read as follows:

(1) Each Commonwealth's attorney shall, during the calendar year 1977 and through June 30, 1978, be entitled to at least the number of assistant Commonwealth's attorney positions, stenographic, secretarial and clerical staff positions, investigative and other personnel positions, which he had or was entitled to at the number and salary level in effect on December 1, 1976.

(2) The number of assistant Commonwealth's attorney positions, stenographic, secretarial and clerical staff positions, investigative and other personnel positions, shall be based on real need to be determined with the advice and consent of the Prosecutors Advisory Council.

(3) All assistant Commonwealth's attorneys shall be licensed practicing attorneys. The full-time assistant Commonwealth's attorneys shall not be allowed to engage in the private practice of law.

(4) All salaries paid to personnel appointed hereunder shall be paid from the State Treasury. The salaries shall be commensurate with the appointee's education, experience, training and responsibility, and be based upon the guidelines established by the Prosecutors Advisory Council, which guidelines shall be comparable with the classification and compensation plan for comparable positions maintained by the state Personnel Cabinet, pursuant to KRS 64.640.

(5) The fiscal court***, consolidated local government,*** or urban-county government in the county or counties that comprise the judicial circuit shall be responsible for providing the office of the Commonwealth's attorney with an adequate grand jury room and witness rooms.

(6) (a) Each Commonwealth's attorney shall be authorized to employ individually or jointly with one or more other Commonwealth's attorneys at least one (1) victim advocate to counsel and assist crime victims as defined in KRS 421.500.

(b) An individual employed as a victim advocate shall be a person who by a combination of education, professional qualification, training, and experience is qualified to perform the duties of this position. The victim advocate shall be an individual at least eighteen (18) years of age, of good moral character, with at least two (2) years of experience working in the human services field or court system in a position requiring professional contact with children or adults, who has:

1. Received a baccalaureate degree in social work, sociology, psychology, guidance and counseling, education, religion, criminal justice, or other human service field; or

2. Received a high school diploma or equivalency certificate, and, in addition to the experience required in this subsection, has at least four (4) years' experience working in the human services field or court system.

(c) Each Commonwealth's attorney who employs an individual to serve as a victim advocate shall develop a written job description which describes the duties of the position and shall ensure the victim advocate completes training relating to the appropriate intervention with crime victims, including victims of domestic violence. Each victim advocate shall perform those duties necessary to insure compliance with the crime victim's bill of rights contained in KRS 421.500 to 421.530. No victim advocate shall engage in political activities while in the course of performing his duties as victim advocate or the practice of law as defined in KRS 524.130. The creation and funding of any new personnel position shall be reviewed and approved by the Prosecutors Advisory Council.

Section 8. KRS 31.185 is amended to read as follows:

(1) Any defending attorney operating under the provisions of this chapter is entitled to use the same state facilities for the evaluation of evidence as are available to the attorney representing the Commonwealth. If he considers their use impractical, the court concerned may authorize the use of private facilities to be paid for on court order by the county.

(2) The ***consolidated local government,*** fiscal court of each county***,*** or legislative body of an urban-county government shall annually appropriate twelve and a half cents ($0.125) per capita of the population of the county, as determined by the Council of Local Governments' most recent population statistics, to a special account to be administered by the Finance and Administration Cabinet to pay court orders entered against counties pursuant to subsection (1) of this section. The funds in this account shall not lapse and shall remain in the special account.

(3) The Finance and Administration Cabinet shall pay all court orders entered pursuant to subsection (1) of this section from the special account until the funds in the account are depleted. If in any given year the special account including any funds from prior years is depleted and court orders entered against counties pursuant to subsection (1) of this section for that year or any prior year remain unpaid, the Finance and Administration Cabinet shall pay those orders from the Treasury in the same manner in which judgments against the Commonwealth and its agencies are paid.

(4) Only court orders entered after July 15, 1994, shall be payable from the special account administered by the Finance and

Administration Cabinet or from the Treasury as provided in subsections (2) and (3) of this section.

Section 9. KRS 39B.020 is amended to read as follows:

(1) The county judge/executive of each county, the mayor of each city***, consolidated local government,*** or urban-county government, or the chief executive of other local government, within thirty (30) days of assuming office following their election, shall appoint a local emergency management director who meets all qualifications criteria pursuant to KRS Chapters 39A to 39F, and shall immediately notify the director of the Division of Emergency Management of the appointment.

(2) ***Except in a county containing a consolidated local government,*** in lieu of appointing a separate local emergency management director for each jurisdiction, the county judge/executive of a county and mayors of cities or urban-county governments, or the chief executive of other local government located within the territorial boundaries of the same county may jointly appoint a single local emergency management director who meets all the qualifications criteria pursuant to KRS Chapters 39A to 39F. It is the policy of the Division of Emergency Management to encourage and support the joint appointment of a single local director in each territorial county of the Commonwealth. The duly appointed local emergency management director shall direct, control, and manage all the affairs of the local emergency management agency and comprehensive emergency management program of the jurisdictions wherein appointed.

(3) A local emergency management director appointed under the provisions of subsections (1) or (2) of this section shall serve at the pleasure of the appointing authority, but shall serve not longer than four (4) years without reappointment and, in addition to any local requirements, shall meet the qualification requirements listed in this subsection:

(a) The local director shall be a high school graduate with an additional three (3) years of experience in business administration, government planning, industrial, or commercial planning, public safety, management of emergency services, or related community or governmental service. Management level experience may not be substituted for high school education. Education at an accredited college or university may be substituted for experience on a year-for-year basis.

(b) The local director shall be a resident of the Commonwealth of Kentucky and the county served.

(c) The local director shall hold no partisan elective office, nor file for, seek, or campaign for any partisan elective office while holding the position of local emergency management director.

(d) The local director shall be routinely available to respond to emergency scenes, command posts, or emergency operations centers to coordinate emergency response of all local public and private agencies and organizations; to perform necessary administrative, planning, and organizational duties; to complete and submit required reports, records, emergency operations plans, and documents; to attend required training; and attend meetings convened by the appointing authority or the area manager of the division.

1. If the local director is also a full-time or part-time employee of the federal or state government, the local director shall have written authorization from the appropriate appointing authority to hold the position of local emergency management director and to fully comply with the provisions of paragraph (d) of this subsection. A copy of the written authorization shall be submitted to the division at the time of appointment.

2. If the local director is also a full-time or part-time employee of a city, county, urban-county government or charter county government in another capacity, that government shall enact an official city or county order or ordinance specifying that the individual appointed as local emergency management director shall fully comply with the provisions of paragraph (d) of this subsection. The order or ordinance shall also specify that the individual, when performing the duties of local emergency management director, shall relinquish all authorities and responsibilities associated with any other governmental employment and shall indicate another person, by name or position, to assume those authorities and responsibilities until such time as the local director shall cease to function as local emergency management director. A copy of the enacted order or ordinance shall be submitted to the division at the time of appointment. The city, county, or urban-county government, or charter county government shall not seek reimbursement from the division for the local director's salary for any time spent in another capacity.

3. If the local director is also a full-time or part-time employee in the private sector, the local director shall have a letter from each employer stating that the local director shall, without penalty or exception, be permitted to fully comply with the provisions of paragraph (d) of this subsection. A copy of the letter from each employer shall be submitted to the division at the time of appointment.

4. If the local director is self-employed, the local director shall certify at the time of appointment, by letter to the director of the division, that the local director's schedule shall permit full compliance with the provisions of paragraph (d) of this subsection.

(4) A local director whose salary has been reimbursed by the division prior to January 1, 1994, shall not be subject to the provisions of subsection (3)(a) of this section, so long as remaining continuously in that position for the appointing jurisdiction.

(5) A local director whose salary is reimbursed in part or in full by the Division of Emergency Management pursuant to KRS

39C.010 and 39C.020, shall also meet any other requirements of KRS Chapters 39A to 39F and any requirements which may be imposed by the Federal Emergency Management Agency, or its successor.

Section 10. KRS 39C.050 is amended to read as follows:

Local emergency management agencies created pursuant to KRS 39B.010 shall be eligible to apply for benefits from the fund created pursuant to KRS 39C.010 and 39C.020 if they meet the following criteria:

(1) The local emergency management agency shall have a qualified, duly-appointed local director who is capable of fully executing the duties of the position pursuant to KRS 39B.030. Unless the local director has already completed an introductory emergency management course or is determined by the director to be suitably qualified, during the first year of participation in the funding program, the local director, whether serving on a voluntary or paid basis, shall have successfully completed all correspondence courses specified by the division by administrative regulation. The local director shall also participate in an emergency management workshop when offered. Unless the local director has already completed an introductory emergency management course or is determined by the director to be suitably qualified, each local director shall also attend an introductory emergency management course when offered.

   (a) In each following year, each local director shall attend an emergency management workshop, when offered.

   (b) In subsequent years, a local director shall continue his or her education by annually completing advanced instruction offered by the division, including the training courses and the Emergency Management Development Program as required by administrative regulations promulgated by the division. The requirements of this section may be met by successfully completing related courses offered by federal agencies and other organizations, as approved by the division.

(2) Each local emergency management agency employee, other than the local director, whose salary is reimbursed in part by this fund, shall attend one (1) emergency management workshop at least every other year, and shall complete other instruction offered by the division as required by administrative regulations promulgated by the division.

(3) The local director appointed pursuant to KRS Chapters 39A to 39F, shall develop a local emergency operations plan and appropriate annexes. This plan shall be subject to concurrence review by the director of the division. In subsequent years, the plan and all annexes shall annually be reviewed, updated, approved, and officially adopted in accordance with the provisions of KRS Chapters 39A to 39F.

(4) During the second and each subsequent year of participation in the program, the local director shall conduct an exercise to test the local emergency operations plan in accordance with exercise program requirements and guidelines of the Federal Emergency Management Agency or the division.

(5) Each local emergency management agency created pursuant to KRS Chapters 39A to 39F shall provide for an organized and designated emergency operating center in the local jurisdiction from which all operations of the local disaster and emergency services organization shall be coordinated. This center shall provide resources for communications, information management, and other operational capabilities necessary to ensure the coordination of all disaster and emergency response in the local jurisdiction. The local emergency operations center shall be a direction and control component of the integrated emergency management system of the Commonwealth.

(6) Each local emergency management agency shall develop, and submit annually to the division, a program paper detailing agency administrative data, current staff personnel listings, a specific work plan of program objectives scheduled for accomplishment during the next fiscal year, and a budget request. Forms and guidance materials for this report shall be provided by the division.

(7) Each employee of a local emergency management agency created pursuant to this chapter with the exception of the local director and each deputy, if the deputy functions in a policymaking capacity, whose salary is reimbursed in part or in total with these funds, shall meet the standards of the Kentucky merit system, or the standards of the federal Office of Personnel Management or its successor or local equivalent, when recognized by the director.

(8) In order for a local emergency management agency to participate in the funding program, one (1) of the following persons shall attend an annual emergency management workshop:

   (a) The county judge/executive;

   (b) The deputy county judge/executive;

   (c) The mayor of an urban-county government***, or of a consolidated local government,*** or ***of*** the largest city in the county, or the mayor of the city which is the county seat of the county, or the chief executive of other local government;

   (d) The city manager;

   (e) The local emergency management deputy director; or

   (f) A member of the fiscal court***,***[~~ or~~] urban-county council***, or consolidated local government*** of the county.

(9) The division shall determine by administrative regulation:

   (a) Public officials and disaster and emergency services personnel who may be reimbursed for attendance at emergency management workshops or other activities; and

(b) Reimbursements for attending courses and workshops, which shall be limited as follows:

1. Reimbursement rates for meals and travel mileage shall not exceed those for state employees.

2. Reimbursement shall be made for attending the workshop or course nearest to the participant's residence. A participant may attend a workshop at a greater distance but will be reimbursed for meals and mileage equal to that of attending the nearest workshop or course. In cases of extreme hardship, the nearest course or workshop requirement may be waived, in writing, by the director.

(10) The division shall:

(a) Publicize all available state and federal emergency management agency training courses to mayors, county judges/executive, and local directors; and

(b) Assist local personnel listed in this section in gaining entrance to state and federal emergency management agency training courses.

(11) If, at any time, the director of the division determines that a local emergency management agency or a local director does not comply with the eligibility requirements of this section, the director shall notify that local director, and the appointing authorities, in writing, of the intent to deny financial assistance to the local emergency management agency. The local director shall have ten (10) working days to come into compliance or otherwise provide information to the director to justify eligibility for funding. If the director continues to determine that the local emergency management agency or the local director does not meet eligibility requirements, the local emergency management agency shall be ineligible for funds and the director shall notify the local director and the appointing authorities, of the determination. A local director aggrieved by a decision of the director may appeal to the Franklin Circuit Court within twenty (20) days of the receipt of the director's decision. The court's review shall be from the record and shall not be de novo.

Section 11. KRS 39F.200 is amended to read as follows:

Each local emergency management director shall assume the duties of, or appoint with the concurrence of the fiscal court, city governing body, urban-county council, ***consolidated local government,*** or governing body of other local government, a local search and rescue coordinator who shall be responsible for the coordination of all search and rescue resources and operations during all search and rescue missions within the city or county. The position of local search and rescue coordinator may be a volunteer position. The local search and rescue coordinator, if appointed by the local emergency management director, shall serve a similar term not to exceed four (4) years, but may be reappointed for a similar term upon the expiration of a previous term. The local search and rescue coordinator may be removed for cause at any time by the local director, with the concurrence of the fiscal court, city governing body, urban-county council or governing body of other local government. The local search and rescue coordinator shall successfully complete training in search management, search techniques, and incident command required by the division by administrative regulation.

Section 12. KRS 45A.345 is amended to read as follows:

As used in KRS 45A.343 to 45A.460, unless the context indicates otherwise:

(1) "Aggregate amount" means the total dollar amount during a fiscal year of items of a like nature, function, and use the need for which can reasonably be determined at the beginning of the fiscal year. Items the need for which could not reasonably be established in advance or which were unavailable because of a failure of delivery need not be included in the aggregate amount.

(2) "Capital cost avoidance" means moneys expended by a local public agency to pay for an energy conservation measure identified as a permanent equipment replacement and whose cost has been discounted by any additional energy and operation savings generated from other energy conservation measures identified in the guaranteed energy savings contract, except that for school districts capital cost avoidance shall also mean moneys expended by the district from one or more of the following sources:

(a) General fund;

(b) Capital outlay allotment under KRS 157.420; and

(c) State and local funds from the Facilities Support Program of Kentucky under KRS 157.440.

(3) "Chief executive officer" means the mayor, county judge/executive, superintendent of schools, or the principal administrative officer of a local public agency, or the person designated by the chief executive officer or legislative body of the local public agency to perform the procurement function.

(4) "Construction" means the process of building, altering, repairing, or improving any public structure or building, or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

(5) "Contract" means all types of local public agency agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item. It includes awards and notices of award; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; and purchase orders. It also includes supplemental agreements with respect to any of the foregoing. It does not include labor contracts with employees of local public agencies.

(6) "Document" means any physical embodiment of information or ideas, regardless of form or characteristic, including

electronic versions thereof.

(7) "Established catalogue price" means the price included in the most current catalogue, price list, schedule, or other form that:

(a) Is regularly maintained by the manufacturer or vendor of an item; and

(b) Is either published or otherwise available for inspection by customers; and

(c) States prices at which sales are currently or were last made to a significant number of buyers constituting the general buying public for that item.

(8) "Evaluated bid price" means the dollar amount of a bid after bid price adjustments are made pursuant to objective measurable criteria, set forth in the invitation for bids, which affect the economy and effectiveness in the operation or use of the product, such as reliability, maintainability, useful life, residual value, and time of delivery, performance, or completion.

(9) "Invitation for bids" means all documents, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in KRS 45A.365.

(10) "The legislative body or governing board" means a council, commission, or other legislative body of a city***, consolidated local government,*** or urban-county; a county fiscal court; board of education of a county or independent school district; board of directors of an area development district or special district; or board of any other local public agency.

(11) "Local public agency" means a city, county, urban-county, ***consolidated local government,*** school district, special district, or an agency formed by a combination of such agencies under KRS Chapter 79, or any department, board, commission, authority, office, or other sub-unit of a political subdivision which shall include the offices of the county clerk, county sheriff, county attorney, coroner, and jailer.

(12) "May" means permissive. However, the words "no person may . . ." mean that no person is required, authorized, or permitted to do the act prescribed.

(13) "Negotiation" means contracting by either the method set forth in KRS 45A.370, 45A.375, or 45A.380.

(14) "Noncompetitive negotiation" means informal negotiation with one (1) or more vendor, contractor, or individual without advertisement or notice.

(15) "Objective measurable criteria" means sufficient information in the invitation to bid as to weight and method of evaluation so that the evaluation may be determined with reasonable mathematical certainty. Criteria which are otherwise subjective, such as taste and appearance, may be established when appropriate.

(16) "Person" means any business, individual, union, committee, club, or other organization or group of individuals.

(17) "Procurement" means the purchasing, buying, renting, leasing, or otherwise obtaining any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any public procurement, including description of requirements, selection, and solicitation of sources, preparation and award of contract, and all phases of contract administration.

(18) "Request for proposals" means all documents, whether attached or incorporated by reference, utilized for soliciting proposals in accordance with the procedures set forth in KRS 45A.370, 45A.375, 45A.380, or 45A.385.

(19) "Responsible bidder or offeror" means a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.

(20) "Responsive bidder" means a person who has submitted a bid under KRS 45A.365 which conforms in all material respects to the invitation for bids, so that all bidders may stand on equal footing with respect to the method and timeliness of submission and as to the substance of any resulting contract.

(21) "Services" means the rendering, by a contractor, of its time and effort rather than the furnishing of a specific end product other than reports which are merely incidental to the required performance of service. It does not include labor contracts with employees of local public agencies.

(22) "Shall" means imperative.

(23) "Specifications" means any description of a physical or functional characteristic of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

(24) "Supplemental agreement" means any contract modification which is accomplished by the mutual action of the parties.

(25) "Supplies" means all property, including but not limited to leases on real property, printing, and insurance, except land or a permanent interest in land.

(26) "Energy conservation measure" means a training program or facility alteration designed to reduce energy consumption or operating costs, and may include one (1) or more of the following:

(a) Insulation of the building structure or systems within the building;

(b) Storm windows or doors, caulking or weatherstripping, multiglazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption;

(c) Automated or computerized energy control systems;

(d) Heating, ventilating, or air conditioning system modifications or replacements;

(e) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made;

(f) Energy recovery systems;

(g) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;

(h) Energy conservation measures that provide long-term operating cost reductions; or

(i) Any life safety measures that provide long-term operating cost reductions.

(27) "Guaranteed energy savings contract" means a contract for the evaluation and recommendation of energy conservation measures and for implementation of one (1) or more of those measures. The contract shall provide that all payments, except obligations on termination of the contract before its expiration, are to be made over time and the savings are guaranteed to the extent necessary to make payments for the cost of the design, installation, and maintenance of energy conservation measures.

(28) "Qualified provider" means a person or business experienced in the design, implementation, and installation of energy conservation measures and is determined to be qualified by the local public agency. The qualified provider shall be responsible for and shall provide the local public agency with the following information regarding guaranteed energy savings contracts:

(a) Project design and specifications;

(b) Construction management;

(c) Construction;

(d) Commissioning;

(e) On-going services as required;

(f) Measurement and verification of savings for guaranteed energy savings contracts; and

(g) Annual reconciliation statements as provided in KRS 45A.352(8).

Section 13. KRS 61.080 is amended to read as follows:

(1) No person shall, at the same time, be a state officer, a deputy state officer or a member of the General Assembly, and an officer of any county, city***, consolidated local government,*** or other municipality, or an employee thereof.

(2) The offices of justice of the peace, county judge/executive, surveyor, sheriff, deputy sheriff, coroner, constable, jailer and clerk or deputy clerk of a court, shall be incompatible, the one (1) with any of the others. The office of county judge/executive and county school superintendent are incompatible.

(3) No person shall, at the same time, fill a county office and a municipal office. ***Notwithstanding the fact that consolidated local governments have both municipal and county powers, persons who hold the office of mayor or legislative council member of a consolidated local government shall not thereby be deemed to hold both a county office and a municipal office. Officers of consolidated local governments shall not, at the same time, fill any other county or municipal office.***

(4) No person shall, at the same time, fill two (2) municipal offices, either in the same or different municipalities.

(5) The following offices shall be incompatible with any other public office:

(a) Member of the Public Service Commission of Kentucky;

(b) Member of the Workers' Compensation Board;

(c) Commissioner of the fiscal court in counties containing a city of the first class;

(d) County indexer;

(e) Member of the legislative body of cities of the first class;

(f) ***Mayor and member of the legislative council of a consolidated local government;***

(g) Mayor and member of the legislative body in cities of the second class; and

(h)[~~(g)~~] Mayor and member of council in cities of the fourth class.

(6) No office in the Kentucky active militia shall be incompatible with any civil office in the Commonwealth, either state, county, district or city.

Section 14. KRS 61.210 is amended to read as follows:

(1) No justice of the peace, while he is a member of the fiscal court, shall, directly or indirectly:

(a) Become interested in or receive benefits or emoluments from any contract let by the fiscal court of his county with relation to the building of roads or any internal improvements;

(b) Work or supervise work, for compensation, on any public road, bridge, culvert, fill, quarry pit or any other road work or internal improvement under any contract made with the fiscal court; or

(c) Furnish, for compensation, any material to the county to be used in the construction of any road or bridge or other internal improvement.

(2) No county judge/executive***,***[~~ or~~] county attorney***, or mayor or council member of a consolidated local government*** shall, directly or indirectly, receive any benefits or emoluments from, furnish any material or other thing of value to be used in, or be interested in any contract let by the fiscal court ***or consolidated local government*** for, the construction of any roads, bridges or parts thereof, or any other public or internal improvement.

(3) Any officer who violates any of the provisions of this section shall be fined not less than fifty dollars ($50) nor more than two hundred dollars ($200) or imprisoned in the county jail not less than ten (10) nor more than forty (40) days, or both, and shall forfeit his office.

Section 15. KRS 61.220 is amended to read as follows:

(1) Any member of the fiscal court***, or any mayor or council member of a consolidated local government*** who becomes interested, directly or indirectly, in any contract for work to be done or material to be furnished for the county or any district thereof, or who becomes interested in any claim against the county shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each offense.

(2) If any county judge/executive***,***[~~ or~~] justice ***of the peace, or mayor or council member of a consolidated local government*** is, by the same act, guilty of a violation of this section and KRS 61.210, he shall be punished as provided in KRS 61.210.

Section 16. KRS 62.055 is amended to read as follows:

(1) Every county clerk, before entering on the duties of his office, shall execute bond to the Commonwealth, with corporate surety authorized and qualified to become surety on bonds in this state. Any county clerk holding office as of January 1, 1978, who has not executed bond as provided herein shall do so within thirty (30) days from February 9, 1978.

(2) In counties containing ***a consolidated local government or*** a city of the first class, the amount of the county clerk's bond shall be at least five hundred thousand dollars ($500,000). In counties containing a city of the second class ***but not containing consolidated local governments*** and ***in*** counties containing ***an*** urban-county form of government, the amount of county clerk's bond shall be at least four hundred thousand dollars ($400,000). In counties containing a city of the third class but not a city of the first or second class, ***a consolidated local government,*** or an urban-county form of government, the amount of the county clerk's bond shall be at least one hundred thousand dollars ($100,000). In counties containing a city of the fourth or fifth class, but not a city of the first, second, or third class, ***a consolidated local government,*** or an urban-county form of government, the amount of the county clerk's bond shall be at least seventy-five thousand dollars ($75,000). In counties containing a city of the sixth class, but not a city of the first, second, third, fourth, or fifth class, ***a consolidated local government,*** or an urban-county form of government, the amount of the county clerk's bond shall be at least fifty thousand dollars ($50,000).

(3) The bond of the county clerk shall be examined and approved by the fiscal court, which shall record the approval in its minutes. The fiscal court shall record the bond in the county clerk's records and a copy of the bond shall be transmitted within one (1) month to the Revenue Cabinet, where it shall be recorded and preserved. Except in those counties where the fees of the county clerk are paid into the State Treasury, the premium on the county clerk's bond shall be paid by the county.

(4) Where circumstances in a particular county indicate that the amount of the bond may not be sufficient, the Revenue Cabinet may request the fiscal court to increase the bond as provided in KRS 62.060. The fiscal court shall then require a bond of sufficient amount to safeguard the Commonwealth.

Section 17. KRS 63.220 is amended to read as follows:

(1) A vacancy in the office of sheriff, coroner, surveyor, county clerk, county attorney, jailer, or constable, shall be filled by the county judge/executive***, or by the mayor in a consolidated local government***.

(2) Appointments to fill vacancies under this section shall be until the successor is elected, as provided in Section 152 of the Constitution, and qualified.

Section 18. KRS 64.250 is amended to read as follows:

(1) ***Except for a county containing a consolidated local government,*** in counties containing a population of over two hundred fifty thousand (250,000), each justice of the peace shall be exclusively compensated for the performance of the duties of his office by a salary to be determined by the fiscal court at a rate no less than nine thousand six hundred dollars ($9,600) per annum but no greater than twelve thousand dollars ($12,000) per annum, which shall be paid, in equal monthly installments, out of the county treasury.

(2) The provisions of subsections (2), (3), and (4) of KRS 64.200 shall apply to justices of the peace in counties containing a population of over two hundred fifty thousand (250,000) ***except in a county containing a consolidated local government***, the same as to constables, and the recorder shall perform the same duties and functions in regard to moneys collected by or for justices of the peace as they are required by KRS 64.200 to perform in regard to moneys collected by or for constables.

Section 19. KRS 64.345 is amended to read as follows:

(1) The county clerk and sheriff of each county having a population of seventy thousand (70,000) or over shall receive an annual salary pursuant to the salary schedule in KRS 64.5275.

(2) In counties containing a city of the first class***,***[~~ and in counties having~~] an urban-county form of government***, or a consolidated local government***, the amount, if any, allowed for the necessary office expenses of each officer shall be approved by the fiscal court in counties containing a city of the first class***,***[~~ and~~] by the legislative body in counties containing an urban-county form of government***, or by the legislative council in a consolidated local government***. This approval shall be signed by the county judge/executive in a county containing a city of the first class***,***[~~ and by~~] the executive authority in a county having an urban-county form of government***, or the mayor in a consolidated local government***. Approval by the fiscal court[~~ or~~] urban-county legislative body***, or legislative council of a consolidated local government*** under this subsection shall not include oversight of expenditure of the funds. This oversight shall be retained by the Office of the Controller created pursuant to KRS 42.0201. In counties ***having a consolidated local government or*** containing a city of the first class, each sheriff's deputy who uses his own automobile in the performance of official duties shall be authorized an allotment for expenses incurred, up to a maximum of three hundred dollars ($300) per month, to be paid out of the fees and commissions of the sheriff's office. In all other counties with a population of seventy thousand (70,000) or more, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the Finance and Administration Cabinet.

(3) Each officer shall, on the first day of each month, send to the Finance and Administration Cabinet a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month as fees or compensation for official duties and shall, with these statements, send to the Finance and Administration Cabinet the amount so collected or received. The Finance and Administration Cabinet may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(4) The salary of each officer and his deputies and assistants and his office expenses shall be paid semimonthly by the State Treasurer upon the warrant of the Finance and Administration Cabinet made payable to the officer. If seventy-five percent (75%) of the amount paid into the State Treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the Finance and Administration Cabinet to any officer for salaries and expenses exceed seventy-five percent (75%) of the amount paid to the Finance and Administration Cabinet by the officer during his official term.

(5) In counties containing a city of the first class***,***[~~ and in counties having~~] an urban-county form of government***, or a consolidated local government***, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be approved at reasonable amounts upon motion of each officer by the fiscal court in counties containing a city of the first class***, by the legislative council in a consolidated local government,*** and by the legislative body in counties containing an urban-county form of government. This approval shall be signed by the county judge/executive in a county containing a city of the first class***,***[~~ and by~~] the executive authority in a county having an urban-county form of government***, or the mayor in a consolidated local government***. Approval by the fiscal court***,***[~~ or~~] urban-county legislative body***, or legislative council of a consolidated local government*** under this subsection shall not include oversight of expenditure of the funds. This oversight shall be retained by the Office of the Controller. In all other counties with a population of seventy thousand (70,000) or more, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the Finance and Administration Cabinet.

Section 20. KRS 64.350 is amended to read as follows:

(1) In counties having a population of seventy thousand (70,000) or more, the salaries of the county clerks and sheriffs and of their deputies and all necessary office expenses, including the equipping, furnishing, maintaining, and operation of the offices, shall be paid out of the State Treasury in amounts not to exceed seventy-five percent (75%) of the fees collected by the officers respectively, and received into the treasury; and twenty-five percent (25%) of the fees collected by the officers respectively, and received into the State Treasury shall be paid in the manner provided by law for the payment of other claims against the state to the fiscal courts***,***[~~ or~~] urban-county governments***, or consolidated local governments*** of the respective counties. The amount of twenty-five percent (25%) of the fees collected by the jailers during each calendar year shall be paid to the fiscal courts[~~ or~~] urban-county governments***, or consolidated local governments*** of the respective counties by April 1 of each year succeeding the calendar year during which the fees were received by the Finance and Administration Cabinet. The amount of twenty-five percent (25%) of the fees collected by the county clerks and sheriffs during each calendar year shall be paid to the fiscal courts***,***[~~ or~~] urban-county governments***, or consolidated local governments*** of the respective counties quarterly no later than April 15, July 15, October 15, and January 15. Each payment shall be for the preceding three (3) months during which fees were received by the Finance and Administration Cabinet. Adjustments necessary to insure that exactly twenty-five percent (25%) of fees collected are returned to the fiscal

courts***,*** ~~[or]~~ urban-county governments***, or consolidated local governments*** shall be made in the January 15 payment. After payment of the salaries and expenses specified in this subsection, any remaining balance of the seventy-five percent (75%) of the fees collected by the officers respectively at the end of their official term shall be paid by the State Treasurer to the fiscal courts***,*** ~~[or]~~ urban-county ***governments, or consolidated local governments***~~[government]~~ of the respective counties, subject to the provisions of subsection (2) of this section.

(2) Notwithstanding the provisions of subsection (1) of this section, all sums received into the State Treasury and representing seventy-five percent (75%) of the fees collected by the sheriffs specified in subsection (1) of this section from any county ***or consolidated local government*** in which a metropolitan correctional services department has been established shall be expended from the State Treasury for the payment of the salaries and costs specified in subsection (1) of this section, and in Section 106 of the Constitution of Kentucky. After payment of the salaries and costs specified in this subsection, the remaining balance representing fees collected by sheriffs shall be paid by the State Treasury to the fiscal court ***or to the consolidated local government*** of the county in which a metropolitan correctional services department has been established by April 1 of each year succeeding the calendar year in which the fees were received by the Finance and Administration Cabinet.

Section 21. KRS 64.5275 is amended to read as follows:

(1) The General Assembly of the Commonwealth of Kentucky hereby finds and determines that county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs in all counties are officers whose duties or jurisdictions are coextensive with that of the Commonwealth within the meaning of Section 246 of the Constitution of Kentucky.

(2) Effective on the first Monday in January of 1999, the maximum salary of county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs shall be fixed by the Department for Local Government according to a salary schedule in accordance with Section 246 of the Kentucky Constitution. The salary schedule provides that these officials, as officers whose jurisdiction or duties are coextensive with the Commonwealth, shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum as adjusted for any increase or decrease in the consumer price index and as described in subsection (4) of this section.

(3) The salary schedule for county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs in all counties provides for nine (9) levels of salary based upon the population of the county in the year prior to the election of county officials as determined by the United States Department of Commerce, Bureau of the Census's annual estimates. To implement the salary schedule, the Department for Local Government shall, by November 1 of each year preceding the election of county officials, certify for each county the population group applicable to each county based on the most recent estimates of the United States Department of Commerce, Bureau of the Census. For the purposes of this section, the salary schedule for county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs shall remain as determined by the Department for Local Government pursuant to this section, regardless of changes in the population estimates or the actual census count that may occur during the term for which the official has been elected or appointed. The salary schedule provides four (4) steps for yearly increments within each population group. County officers named in this section shall be paid according to the first step within their population group for the first year or portion thereof they serve in office. Thereafter, each officer, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. Prior to assuming office on the first Monday in January, 1999, or thereafter, any person assuming any of the offices for which the salary is determined by this section must certify to the commissioner of the Department for Local Government the total number of years, not to exceed four (4) years, that the person has previously served in the office. The department shall place the officer in the proper step based upon a formula of one (1) incremental step per full calendar year of service:

SALARY SCHEDULE

County Population by Group	Steps and Salary for Affected Officers			
Group I	Step 1	Step 2	Step 3	Step 4
0-4,999	$ 6,600	$ 6,800	$ 7,000	$ 7,200
Group II				
5,000-9,999	7,200	7,400	7,600	7,800
Group III				
10,000-19,999	7,800	8,000	8,200	8,400
Group IV				
20,000-29,999	8,100	8,400	8,700	9,000
Group V				
30,000-44,999	8,700	9,000	9,300	9,600
Group VI				
45,000-59,999	9,000	9,400	9,800	10,200

Group VII				
60,000-89,999	9,600	10,000	10,400	10,800
Group VIII				
90,000-499,999	9,900	10,400	10,900	11,400
Group IX				
500,000 and up	10,500	11,000	11,500	12,000

(4) Upon publication of the annual consumer price index by the United States Department of Commerce, the Department for Local Government shall fix the salary of the county judge/executive, county clerk, jailer who operates a full service jail, and sheriff at an annual rate of salary to which the county official is entitled pursuant to the increase in the Consumer Price Index and the salary schedule contained in this section. This salary determination shall be retroactive to the preceding January 1.

(5) Notwithstanding any provision contained in this section, no county official holding office on July 15, 1998, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on July 15, 1998.

(6) In addition to the step increases based on service in office, each officer shall be paid an annual incentive of one hundred dollars ($100) per calendar year for each forty (40) hour training unit successfully completed, based on continuing service in that office and, except as provided in this subsection, completion of at least forty (40) hours of approved training in each subsequent calendar year. If an officer fails, without good cause as determined by the commissioner of the Department for Local Government, to obtain the minimum amount of approved training in any year, the officer shall lose all training incentives previously accumulated. Each training unit shall be approved and certified by the Department for Local Government. No officer shall receive more than one (1) training unit per calendar year nor more than four (4) incentive payments per calendar year. Each officer shall be allowed to carry forward up to forty (40) hours of training credit into the following calendar year for the purpose of satisfying the minimum amount of training for that year. Each annual incentive payment shall be adjusted by the Department for Local Government on an annual basis for any increase or decrease in the consumer price index in the same manner as salaries are adjusted as described in subsection (4) of this section. The Department for Local Government shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish guidelines for the approval and certification of training units.

(7) Except in counties that contain an urban-county form of government, justices of the peace who serve on fiscal courts and county commissioners shall also be eligible for the training incentive payments in accordance with subsection (6) of this section.

(8) The provisions of this section shall not apply to a county judge/executive in a county which has established a consolidated local government pursuant to KRS Chapter 67C.

Section 22. KRS 65.003 is amended to read as follows:

(1) The governing body of each city***,***[~~ and~~] county, ***urban-county,***[~~including urban counties~~] ***consolidated local government,*** and charter ***county***[~~counties~~], shall adopt, by ordinance, a code of ethics which shall apply to all elected officials of the city***,***[~~ or~~] county, ***urban-county, consolidated local government, or charter county,*** and to appointed officials and employees of the city,[~~ or~~] county***, urban-county, consolidated local government, or charter county*** government as specified in the code of ethics. The elected officials of a city***,***[~~ or~~] county***, or consolidated local government*** to which a code of ethics shall apply include the mayor, county judge/executive, members of the governing body, county clerk, county attorney, sheriff, jailer, coroner, surveyor, and constable but do not include members of any school board. Candidates for the ***local government***[~~city and county~~] elective offices specified in this subsection shall comply with the annual financial disclosure statement filing requirements contained in the code of ethics.

(2) Any city***,***[~~ or~~] county***, or consolidated local government*** may enter into an agreement with one (1) or more other cities***,***[~~ or~~] counties, ***or consolidated local governments*** in accordance with the provisions of the Interlocal Cooperation Act, KRS 65.210 to 65.300, for joint adoption of a code of ethics which shall apply to all elected officials of the cities***,***[~~ or~~] counties, ***or consolidated local governments,*** and to appointed officials and employees as specified by each of the cities***,***[~~ or~~] counties***, or consolidated local governments*** which enters into the agreement. Candidates for the city***,***[~~ and~~] county***, or consolidated local government*** elective offices specified in this subsection shall comply with the annual financial disclosure statement filing requirements contained in the code of ethics.

(3) Each code of ethics adopted as provided by subsection (1) or (2) of this section, or amended as provided by subsection (4) of this section, shall include, but not be limited to, provisions which set forth:

(a) Standards of conduct for elected and appointed officials and employees;

(b) Requirements for creation of financial disclosure statements, which shall be filed annually by all candidates for the city***,***[~~ and~~] county***, or consolidated local government*** elective offices specified in subsection (1) of this section, elected officials of each city***,***[~~ and~~] county ***or consolidated local*** government, and other officials or employees of the city***,***[~~ or~~] county***, or consolidated local*** government, as specified in the code of ethics, and which shall be filed with the person or group responsible for enforcement of the code of ethics;

(c) A policy on the employment of members of the families of officials or employees of the city***,***[~~ or~~] county***, or***

consolidated local government, as specified in the code of ethics;

(d) The designation of a person or group who shall be responsible for enforcement of the code of ethics, including maintenance of financial disclosure statements, all of which shall be available for public inspection, receipt of complaints alleging possible violations of the code of ethics, issuance of opinions in response to inquiries relating to the code of ethics, investigation of possible violations of the code of ethics, and imposition of penalties provided in the code of ethics.

(4) The code of ethics ordinance adopted by a city***,***[~~ or~~] county***, or consolidated local government*** may be amended but shall not be repealed.

(5) (a) Within twenty-one (21) days of the adoption of the code of ethics required by this section, each city***,***[~~ and~~] county***, or consolidated local government*** shall deliver a copy of the ordinance by which the code was adopted and proof of publication in accordance with KRS Chapter 424 to the Department for Local Government. The department shall maintain the ordinances as public records and shall maintain a list of city***,***[~~ and~~] county***, or consolidated local*** governments which have adopted a code of ethics and a list of those which have not adopted a code of ethics.

(b) Within twenty-one (21) days of the amendment of a code of ethics required by this section, each city***,***[~~ or~~] county***, or consolidated local government*** shall deliver a copy of the ordinance by which the code was amended and proof of publication in accordance with KRS Chapter 424 to the Department for Local Government, which shall maintain the amendment with the ordinance by which the code was adopted.

(c) For ordinances adopting or amending a code of ethics under this section, cities of the first class ***and consolidated local governments*** shall comply with the publication requirements of KRS 83A.060(9), notwithstanding the exception contained in that statute.

(6) If a city***,***[~~ or~~] county***, or consolidated local*** government fails to comply with the requirements of this section, the Department for Local Government shall notify all state agencies, including area development districts, which deliver services or payments of money from the Commonwealth to the city***,***[~~ or~~] county***, or consolidated local*** government. Those agencies shall suspend delivery of all services or payments to the city***,***[~~ or~~] county***, or consolidated local*** government which fails to comply with the requirements of this section. The Department for Local Government shall immediately notify those same agencies when the city***,***[~~ or~~] county***, or consolidated local*** government is in compliance with the requirements of this section, and those agencies shall reinstate the delivery of services or payments to the city***,***[~~ or~~] county***, or consolidated local*** government.

Section 23. KRS 65.156 is amended to read as follows:

(1) The governing board of any local government retirement system created pursuant to KRS 67A.320, 67A.340, 67A.360 to 67A.690, 79.080, 90.400, 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884, or KRS Chapter 96 shall submit the retirement system to an actuarial evaluation at least once every three (3) years, if the system provides a defined benefit. The evaluation shall be prepared by an actuary who is a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the Employees' Retirement Income Security Act of 1975. The board shall send a copy of the most recent evaluation to the librarian of the Legislative Research Commission by September 1, 1982, and thereafter the board shall send a copy of each new evaluation within ten (10) days of receipt.

(2) Actuaries performing evaluations pursuant to this section shall use the entry age normal cost funding method. Their reports shall include a definition of each actuarial term and an explanation of each actuarial assumption used. Assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience.

(3) Any city or municipal agency with a retirement system created pursuant to KRS 79.080, 90.400, 90.410, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884, or KRS Chapter 96 which is closed to new members pursuant to KRS 78.530, 95.520, 95.621, or 95.852 shall, if its local pension system provides a defined benefit, contribute annually to the pension system, for the benefit of the retirees of the system and the active participants who choose to remain in the system, and in cities of the second class for the benefit of members who have completed at least twenty (20) years' service and withdrawn from service pursuant to KRS 95.857, an amount equal to that which would be required pursuant to the funding standards of KRS 95.868, plus so much of the principal amount of any unfunded prior service liability as the actuary states is necessary to maintain cash flow adequate to pay retiree and beneficiary payments until financial obligations to all retirees and beneficiaries are fully satisfied.

(4) All lawful expenses for general administration, performance bonds, medical, actuarial, accounting, auditing, legal, and investment services of a retirement system listed in subsection (1) of this section shall be paid from the pension fund. Actuaries performing evaluations pursuant to this section shall include estimates of the expenses in their recommendations for pension system funding, and local governments shall add payments for the expenses to their annual contributions to their respective retirement systems.

(5) A city or city agency***, consolidated local government,*** or urban-county government may, pursuant to KRS 67A.340, 79.080, 90.410, or KRS Chapter 96 as applicable, provide for the retirement security of its employees through the creation of a money purchase or defined contribution plan qualified under Section 401(a) of the Internal Revenue Code of 1954 as amended. City employee deferred compensation plans created pursuant to KRS 18A.270, or money purchase or defined contribution plans, qualified under Section 401(a) of the Internal Revenue Code of 1954 as amended, which by their

nature cannot have an unfunded liability, shall not be subject to the actuarial evaluation requirements of this section, and shall not be subject to termination for purposes of employee entry into the County Employees Retirement System, as required by KRS 78.530, 79.080, 90.410, and 96.180.

(6) No city or county, except an urban-county, or special district, nor any agency or instrumentality of a city or county or special district shall create or maintain for its officers or employees a defined benefit retirement system, which by its nature can have an unfunded liability. The provisions of this subsection shall not preclude employer contributions for city managers or other appointed local government executives who participate, pursuant to KRS 78.540, in a retirement system which operates in more than one (1) state, nor the continuation of a local government defined benefit retirement system which has been closed to new members but which must fulfill its obligations to current active members, retirees, and beneficiaries. Notwithstanding any provision to the contrary, the provisions of this subsection shall not apply to length of service awards programs established for the benefit of volunteer firefighters and volunteer life squad and volunteer rescue personnel.

(7) Notwithstanding any provision to the contrary, any city or county may establish awards programs that recognize the length of service to the community by volunteer firefighters, volunteer life squads, and volunteer rescue personnel.

Section 24. KRS 65.158 is amended to read as follows:

Any city***, consolidated local government,*** or urban-county government which makes deductions from the pay of its employees for any cause other than taxes shall, upon the written request of at least thirty percent (30%) of all employees within a department or division, deduct the amount from the pay of an employee as he may note on a signed payroll notification card or voucher for the purposes of employee benefits, insurance, community projects, or union dues. No deduction shall be made pursuant to this section from the pay of any employee who does not sign a payroll notification card or voucher. Upon these deductions, the city***, consolidated local government,*** or urban-county government shall, within thirty (30) days, pay to the elected representative or designated recipient for the employees of the department or division the total amount of the deductions minus the actual cost to the city***, consolidated local government,*** or urban-county government of processing the deductions.

Section 25. KRS 65.170 is amended to read as follows:

(1) A district may be dissolved by a referendum as provided in this section.

(2) Persons seeking dissolution of a district shall submit a petition to the county clerk signed by at least fifty percent (50%) of that class of citizens who may by law petition for the creation of the district.

(3) The petition shall be in substantially the following form: "The undersigned (registered voters, qualified voters, freeholders or landowners as determined by subsection (2) of this section) living within (name of the district and containing a metes and bounds description of the district) hereby request that the question of the dissolution of the district be put to a referendum." The petition shall conspicuously state in layman's terms that any legal obligations of the district must be satisfied before the district can be dissolved and that the citizens of the district shall be responsible for the satisfaction of any such obligations. Signatures on the petition shall be dated, the last no later than ninety (90) days after the first.

(4) If the county clerk determines that the petition is in proper order, he shall certify the petition to the fiscal court ***or consolidated local government***. The fiscal court ***or consolidated local government*** shall direct that the question be placed before the voters at the next regular election if the petition is certified not later than the second Tuesday in August preceding the day of the regular election. The fiscal court ***or consolidated local government*** shall bear the costs of advertising and placing the question before the voters.

(5) The county clerk shall advertise the question as provided in KRS Chapter 424 and shall prepare the following admonition to the voter: "The (name of district) may have existing legal obligations that must be satisfied before the district can be dissolved. The citizens of the district shall be responsible for the satisfaction of any such obligations." The question of the dissolution of the district shall be placed before the voters in substantially the following form: "The (name of the district and containing a metes and bounds description of the district) should be dissolved." The voter shall vote "yes" or "no."

(6) Registered voters eligible to sign a petition for dissolution as provided by subsection (2) of this section shall be eligible to vote on the question of dissolution.

(7) In referendums under this section, provision shall be made for those opposing the dissolution of the district to have equal representation with the proponents of the measure in the determination of eligibility of voters, and in the observance of canvassing and certifying of the returns.

Section 26. KRS 65.192 is amended to read as follows:

In counties containing a ***consolidated local government or*** city of the first class, the following method of creating a taxing district shall be an alternative to KRS 65.182 to 65.190:

(1) Persons desiring to form a taxing district shall present a petition to the fiscal court clerk ***or clerk of the legislative council of a consolidated local government*** and to each member of the fiscal court ***or consolidated local government council***, requesting that the question of establishing the special district be placed upon the ballot for the next general election. The petition shall be signed by at least one hundred (100) registered voters from each senatorial district, contained wholly or partially within the proposed taxing district. If one hundred (100) registered voters do not reside within a senatorial district and within the boundaries of the proposed taxing district, then the petition shall be signed by twenty-five percent (25%) of the registered voters within said senatorial district. At the time of its submission to fiscal court ***the*** fiscal court ***or***

consolidated local government council each petition shall be accompanied by a plan of service, showing such of the following as may be germane to the purposes for which the taxing district is being formed:

(a) The statutory authority under which the district is created and under which the taxing district will operate;

(b) The method of creating and appointing the governing body of such district if it is to be different from the general statutory authority under which it will operate;

(c) Demographic characteristics of the area including but not limited to population, density, projected growth, and assessed valuation;

(d) A description of the service area including, but not limited to, the population to be served, a metes and bounds description of the area of the proposed taxing district, the anticipated date of beginning service, the nature and extent of the proposed service, the projected effect of providing service on the social and economic growth of the area, and projected growth in service demand or need;

(e) A three (3) year projection of cost versus revenue and the method chosen for raising such revenues as authorized in this section;

(f) Justification for formation of the taxing district including but not limited to the location of nearby governmental and nongovernmental providers of like services; and

(g) Any additional information such as land use plans, existing land uses, drainage patterns, health problems, and other similar analyses which bear on the necessity and means of providing the proposed service.

(2) The fiscal court clerk ***or the clerk of the legislative council of a consolidated local government*** shall notify all planning commissions, cities, and area development districts within whose jurisdiction the proposed service area is located and any state agencies required by law to be notified of the proposal for the creation of the taxing district.

(3) The fiscal court clerk ***or the clerk of the legislative council of a consolidated local government*** shall review the petition, and if the fiscal court ***or consolidated local government council*** determines that the signatures are valid, the fiscal court ***or consolidated local government council*** shall schedule a hearing on the proposal for no earlier than thirty (30) nor later than sixty (60) days following receipt of the petition, charter, and plan of service, and shall, in accordance with the provisions of KRS Chapter 424, publish notice which includes the time and place of the public hearing, alerts the public that the issue discussed at the hearing will be placed upon the ballot and includes an accurate map of the area or a description in layman's terms reasonably identifying the area.

(4) At the public hearing, the fiscal court ***or the legislative council of a consolidated local government*** shall take testimony of interested parties and solicit the recommendations of any planning commission, city, area development district, or state agency meeting the criteria of subsection (2) of this section.

(5) Following the public hearing, the fiscal court ***or the legislative council of a consolidated local government*** shall adopt a resolution submitting to the qualified voters of the county ***or the consolidated local government*** the question as to whether a taxing district should be established for the area and a special ad valorem tax or an occupational license fee imposed for the maintenance and operation of the district. A certified copy of the order of the fiscal court ***or the legislative council of a consolidated local government*** shall be filed with the county clerk not later than the second Tuesday in August prior to the next regular election and thereupon the clerk shall cause the question to be placed upon the ballot.

(6) The question shall be stated so that the service to be provided by the district, the type of governing body, and the method of financing as allowed by this section are clearly outlined.

(7) If a majority of those voting on the question favor the establishment of a special district with authorization to impose an ad valorem tax then it shall be so established and shall constitute and be a taxing district within the meaning of Section 157 of the Constitution of Kentucky. If a majority of those voting on the question favor the establishment of a special district with an increase in the occupational license fee as authorized by this section, it shall be so established and shall operate as set forth in the question on the ballot.

(8) If an ad valorem tax is approved, the county clerk shall add the levy to the tax bills of the county ***or the consolidated local government***. For taxing purposes the effective date of the tax levy shall be January 1 of the year following the election. If an occupational license fee increase is approved, the appropriate legislative bodies shall add the levy to the occupational license fee as of January 1 of the year following the election. The tax or fee shall be collected in the same manner as are other county ***or consolidated local government*** ad valorem taxes or occupational license fees and shall be turned over to the governing body of the district. The special ad valorem tax or fee shall be in addition to all other ad valorem taxes or occupational license fees.

(9) Nothing in this section shall be construed to enlarge upon or to restrict the powers granted a taxing district under the taxing district's specific authorizing statutes.

(10) A special district created pursuant to this section may be financed either by a special ad valorem tax imposed by the governing body of the district, as authorized by the voters in an election on the question, of an amount not to exceed ten cents ($0.10) per one hundred dollars ($100) of assessed value of the property subject to local taxation of the district; or by a levy of occupational license fees by the public body or bodies with jurisdiction over the area served by the special district, if the levy has been approved by the voters in an election on the question. The special district shall not levy both

an ad valorem tax and an occupational license fee. The occupational license fee shall not exceed one percent (1%) of:

(a) Salaries, wages, commissions, and other compensation earned by persons for work done and services performed or rendered; and

(b) The net profits of businesses, trades, professions, or occupations from activities conducted in the district, except public service companies, banks, trust companies, combined banks and trust companies, combined trust, banking and title companies, any savings and loan association whether state or federally chartered, and in all other cases where a public body is prohibited by law from imposing a license fee.

(11) The budget of any taxing district created pursuant to this section shall be approved by the fiscal court ***or legislative council of a consolidated local government*** if financed by an ad valorem tax, or by the fiscal court ***or the legislative council of a consolidated local government*** and the legislative body levying the fee, if funded by an occupational license fee increase. The board of the district shall submit its estimate of revenue and proposed budget to the appropriate approving body or bodies by May 1 of each year, and such body or bodies shall approve or amend the budget by June 1.

Section 27. KRS 65.245 is amended to read as follows:

(1) It is the purpose of this section to clarify the ability of cities, counties, urban-counties, charter counties, ***consolidated local governments,*** and sheriffs upon approval of the fiscal court ***or consolidated local government*** to share their revenues by entering into interlocal agreements.

(2) Any city, county, urban-county, ***consolidated local government*** or charter county may by ordinance enter into cooperative interlocal agreements for the sharing of revenues. A sheriff, upon approval of the fiscal court ***or the consolidated local government***, may enter into a memorandum of agreement with local governments for the purposes of sharing of revenues. The distribution of the revenues shall be as agreed upon by the local governments or the sheriff and contained in the interlocal agreement.

Section 28. KRS 65.410 is amended to read as follows:

(1) "Local legislative body" means the chief governing body of a city, county***, consolidated local government,*** or urban-county which has legislative powers whether it is the board of aldermen, the general council, the common council, ***the legislative council,*** the city council, the board of commissioners, the fiscal court, or otherwise.

(2) "Open space land" means any land in an area which is provided or preserved for park or recreational purposes; conservation of land or other natural resources; historic or scenic purposes; or community development purposes.

(3) "Public body" means any state agency or local legislative body.

(4) A "scenic easement" is an interest in land transferred by the owner thereof to the public, either in perpetuity or for a term of years. A scenic easement may be created by sale, gift, lease, bequest, or otherwise. An instrument which creates a scenic easement shall contain a covenant whereby the owner of the land promises neither to undertake nor to permit the construction of any improvements upon the land, except as the instrument provides and except for public service facilities installed for the benefit of the land subject to such covenant or public service facilities installed pursuant to an authorization by the governing body of the city, county, urban-county, or the Public Service Commission. Any such reservation shall be consistent with the purposes of this chapter or with the findings of the county, city, or urban-county pursuant to KRS 65.466 and shall not permit any action which will materially impair the open-space character of the land.

Section 29. KRS 65.466 is amended to read as follows:

A scenic easement shall not be accepted by a city, county, or urban-county, ***consolidated local government,*** unless the governing body, by resolution finds:

(1) That the preservation of the character of the land is consistent with the plan of the city, county, ***consolidated local government,*** or urban-county, where such plan exists; and

(2) That the preservation of the character of the land is in the best interest of the state, county, city, ***consolidated local government,*** or urban-county, is important to the public for the enjoyment of scenic beauty, and will serve the public interest in a manner recited in the resolution and consistent with the purposes of KRS 65.462 to 65.480.

(3) The local legislative body may consider these factors:

(a) It is likely that at some time the public may acquire the land for a park or other public use;

(b) The land is unimproved and has scenic value to the public as viewed from a public highway or from public or private buildings;

(c) The retention of the land as open space will add to the amenities of living in adjoining or neighboring urbanized areas;

(d) The land lies in an area which in the public interest should remain rural in character and the retention of the land as open space will help preserve the rural character of the area;

(e) It is in the public interest that the land remain in its natural state, including the trees and other natural growth, as a means of preventing floods or soil erosion or because of its value as watershed;

(f) The land lies within an established scenic highway corridor;

(g) The land is valuable to the public as a wildlife preserve or sanctuary and the instrument contains appropriate covenants to that end; or

(h) The land has historic significance or contains a building of either historic or architectural importance.

Section 30. KRS 65.490 is amended to read as follows:

As used in KRS 65.490 to 65.499, unless the context otherwise requires:

(1) "Agency" means an urban renewal and community development agency of a taxing district located within a county containing ***a consolidated local government or*** a city of the first class, established under KRS Chapter 99; a development authority located within a county, containing ***a consolidated local government or*** a city of the first class established under KRS Chapter 99; a nonprofit corporation located within a county containing ***a consolidated local government or*** a city of the first class established under KRS Chapter 58; or a designated department, division, or office ***of a county containing a consolidated local government or*** of a city of the first class~~[or a county containing a city of the first class]~~;

(2) "Development area" means an area no less than one (1) square mile, nor more than six (6) square miles, designated in need of public improvements by a local or state government in a county containing ***a consolidated local government or*** a city of the first class, a project area as defined in KRS 99.615, or a public project as defined in KRS 58.010 in a county containing ***a consolidated local government or*** a city of the first class. "Development area" includes an existing economic development asset;

(3) "Increment" means that amount of money received by any taxing district or the state that is determined by subtracting the amount of old revenues from the amount of new revenues in any year for which a taxing district or the state and an agency have agreed upon under the terms of a contract of release or a grant contract;

(4) "Local government" means a county containing ***a consolidated local government or*** a city of the first class;

(5) "New revenues" means the revenues received by any taxing district or the state from a development area in any year after the establishment of the development area;

(6) "Old revenues" means the amount of revenues received by any taxing district or the state from a development area in the last year prior to the establishment of the development area;

(7) "Project" means any urban renewal, redevelopment, or public project undertaken in accordance with the provisions of KRS 65.490 to 65.497, any project undertaken in accordance with KRS 99.610 to 99.680, or any project undertaken in accordance with the provisions of KRS Chapter 58;

(8) "Release" or "contract of release" or "grant contract" means that agreement by which a taxing district or the state permits the payment to an agency of a portion of increments or an amount equal to a portion of increments received by it in return for the benefits accrued to the taxing district or the state by reason of a project undertaken by an agency in a development area; and

(9) "Taxing district" means ***a consolidated local government,*** a county containing a city of the first class***,***~~[or]~~ a city of the first class that encompasses all or part of a development area, or the state***,*** but does not mean a school district.

(10) "Pilot program" means a tax increment financing program or a grant program created by an agency within ***a consolidated local government or*** a county containing a city of the first class which shall exist for a period of twenty (20) years after which time it shall continue only after reauthorization by the General Assembly.

Section 31. KRS 65.499 is amended to read as follows:

Any agency, other than a county, ***consolidated local government,*** city, urban-county, or charter county government, that enters into a contract with any taxing district for the release of any increments that may arise during the period of a contract of release shall forthwith notify the official charged with the collecting of taxes for the property in the development area of the execution of a contract of release, and the official charged with the collection of taxes shall in each year a contract of release is in effect determine the amount of the increment that is the subject of the contract of release for division between the taxing district and the agency; and, upon the basis of the agreement made between the taxing district and the agency, the official shall divide and distribute the funds derived from the area between the taxing district and the agency. Any local government that has designated an agency as having oversight of a designated development area shall annually issue a release to the agency of those increments created from the taxes collected on properties within the development area. All increments released to an agency of a local government shall be used solely for the purposes of projects in the development area.

Section 32. KRS 65.540 is amended to read as follows:

(1) The members of the authority shall be appointed as follows:

(a) If the authority is established by a city, such members shall be appointed by the mayor of the city;

(b) If the authority is established by a county, such members shall be appointed by the county judge/executive with the approval of the fiscal court;

(c) If the authority is established as a joint city-county riverport authority, three (3) members shall be appointed by the mayor and three (3) members by the county judge/executive to the terms as provided in subsection (2) of this section, and in addition, the mayor may appoint himself or a member of the city legislative body as one (1) additional member of the authority and the county judge/executive may appoint himself or a member of the fiscal court as one (1) additional member of the authority for a term of two (2) years, provided that such persons may not serve on the authority after the expiration of their terms as an elected official;

(d) If a combination of cities and/or counties establishes a joint riverport authority, the mayors and/or county judges/executive involved shall jointly choose six (6) members to the terms as provided in subsection (2) of this section, and shall jointly choose successors and may upon agreement appoint a mayor or a member of a city legislative body and a county judge/executive or a member of a fiscal court as two (2) additional members of the authority for terms of two (2) years, provided that such persons may not serve on the authority after the expiration of their terms as an elected official.

(2) Except as provided in subsection (1)(c) and (d) of this section, members of the authority shall serve for a term of four (4) years each, and until their successors are appointed and qualified, provided, however, that initial appointments shall be made so that two (2) members are appointed for two (2) years, two (2) members for three (3) years and two (2) members for four (4) years. Upon expiration of these staggered terms, successors shall be appointed for a term of four (4) years.

(3) A riverport authority member may be replaced by the appointing authority for inefficiency, neglect of duty, malfeasance, or conflict of interest. The appointing authority shall submit a written statement to the riverport authority setting forth the reasons for removal, and the statement shall be read at the next authority meeting, which shall be open to the general public. The member so removed shall have the right of appeal in the Circuit Court. Except as provided in subsection (1)(c) and (d) of this section no riverport authority member shall hold any official office with the appointing authority.

(4) Notwithstanding subsection (2) of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the terms of the members of the authority shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, the county judge/executive with the approval of the fiscal court shall adjust the terms of the sitting members so that one-third (1/3) of the terms expire in one (1) year, one-third (1/3) expire in two (2) years, and one-third (1/3) expire in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years. ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing that city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, all members of the authority shall be appointed by the mayor of the consolidated local government for a term of three (3) years pursuant to the provisions of Section 1 of this Act. Incumbent members upon the establishment of the consolidated local government shall continue to serve as members of the authority for the time remaining on their current terms of appointment.***

Section 33. KRS 65.570 is amended to read as follows:

(1) Members of the authority shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred by them in the conduct of the affairs of the authority. The authority shall, upon the appointment of its members, organize and elect officers. The authority shall choose a chairman and vice chairman who shall serve for terms of one (1) year. The authority may fix a salary for the secretary-treasurer, and the secretary-treasurer shall execute an official bond to be set and approved by the authority, and the cost thereof shall be paid by the authority.

(2) The authority may employ or retain necessary counsel, agents, employees or other persons to carry out its purposes, work and functions and may prescribe such rules and regulations as it deems necessary.

(3) The secretary-treasurer shall keep the minutes of all meetings of the authority and shall also keep a set of books showing the receipts and expenditures of the authority. He shall preserve on file duplicate vouchers for all expenditures and shall present to the authority, upon request, complete reports of all financial transactions and the financial condition of the authority. Such books and vouchers shall at all times be subject to examination by the legislative body or bodies by whom the authority was created. He shall transmit at least once annually a detailed report of all acts and doings of the authority to the legislative body or bodies by whom the authority was created.

(4) Notwithstanding subsection (1) of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the secretary-treasurer or executive director, as the case may be, shall be appointed by and serve at the pleasure of the county judge/executive with the approval of the fiscal court as provided in KRS 67.040; fiscal court shall fix the salary. ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing that city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the secretary-treasurer or executive director, as the case may be, shall be appointed by and shall serve at the pleasure of the mayor.***

Section 34. KRS 65.680 is amended to read as follows:

As used in KRS 65.680 to 65.699:

(1) "Assessment" means the job development assessment fee authorized by KRS 65.6851, which the governing body may elect to impose throughout the development area;

(2) “City” means any city***, consolidated local government,*** or urban-county;

(3) "Commencement date" means the date a development area is established, as provided in the ordinance creating the development area;

(4) “County” means any county***, consolidated local government,*** or charter county;

(5) "Debt charges" means the principal, including any mandatory sinking fund deposits, interest, and any redemption

premium, payable on increment bonds as the payments come due and are payable and any charges related to the payment of the foregoing;

(6) “Development area” means a contiguous geographic area, which may be within one (1) or more cities or counties, defined and created for economic development purposes by an ordinance of a city or county in which one (1) or more economic development projects are proposed to be located;

(7) “Economic development project” means any property, asset, or improvement certified by the governing body, which certification is conclusive as:

(a) Being for a public purpose;

(b) Being for economic development purposes;

(c) Being in or related to a development area; and

(d) Having an estimated life or period of usefulness of one (1) year or more, including, but not limited to, real estate, buildings, personal property, equipment, furnishings, and site improvements and reconstruction, rehabilitation, renovation, installation, improvement, enlargement, and extension of property, assets, or improvements so certified as having an estimated life or period of usefulness of one (1) year or more;

(8) "Economic development purposes" means the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, or any combination thereof, which is determined by the governing body establishing the development area as contributing to economic development;

(9) “Financing agreement” means an agreement made between cities, counties, or a combination thereof providing for the release of increments under the authority of KRS 65.680 to 65.699;

(10) “Governing body” means the body possessing legislative authority in a city or county;

(11) "Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more economic development projects in a development area, the payment of which is secured solely by a pledge of increments or by a pledge of increments and other sources of payment that are otherwise permitted by law to be pledged or used as a source of payment of the bonds or notes;

(12) “Increments” means that amount of revenue due to be received by a city or county, determined by subtracting the amount of old revenues from the amount of new revenues, including assessments, if any, with respect to a development area;

(13) "Issuer" means a city or county issuing increment bonds;

(14) “New revenues” means the revenues received with respect to a development area in any year after the commencement date for the development area and may include all or a portion of the assessments as determined by the governing body;

(15) “Old revenues” means the amount of revenues received with respect to a development area in the last year prior to the commencement date for the development area;

(16) "Outstanding" means increment bonds that have been issued, delivered, and paid for, except any of the following:

(a) Increment bonds canceled upon surrender, exchange, or transfer, or upon payment or redemption;

(b) Increment bonds in replacement of which or in exchange for which other bonds have been issued; or

(c) Increment bonds for the payment, or redemption or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the ordinance or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, or otherwise, have been deposited, and credited in a sinking fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of increment bonds to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected bond holders has been filed with the issuer or its agent;

(17) "Revenue collector" means any official charged with collecting revenues in a development area;

(18) "Revenues" means ad valorem revenues, occupational license fees, and assessments received by the city or county creating a development area and by each city and county that is a party to a financing agreement related to that development area;

(19) "Special fund" means a special fund created in accordance with KRS 65.688 into which increments are to be deposited;

(20) "Termination date" means the date on which the development area shall cease to exist, which date shall be no earlier than the date any increment bonds secured by increments from a development area are no longer outstanding; and

(21) “Year” means January 1 to December 31 of the same calendar year.

Section 35. KRS 65.7701 is amended to read as follows:

As used in KRS 65.7703 to 65.7721, unless the context otherwise requires:

(1) "Governmental agency" means any county, urban-county government, ***consolidated local government,*** city, taxing district, special district, school district, or other political subdivision of the Commonwealth or body corporate or politic or any instrumentality of the foregoing.

(2) "Governing body" means the board, council, commission, fiscal court, or other body or group that is authorized by law to

act on behalf of a governmental agency.

(3) "Legislation" means an order, resolution, or ordinance of the governing body.

(4) "Notes" means notes authorized by KRS 65.7703 to 65.7721 which may be secured by taxes or revenue or taxes and revenue.

(5) "Revenue" means all funds received by a governmental agency which are not taxes, including, but not limited to, excises, transfers, service fees, assessments, and occupational license fees.

(6) "State local debt officer" means the officer so designated in KRS 66.045.

(7) "Taxes" means taxes properly levied upon real or personal property.

Section 36. KRS 65.940 is amended to read as follows:

As used in KRS 65.942 to 65.956, unless the context otherwise requires:

(1) "Acquire" means to purchase, install, equip, or improve personal property or real property pursuant to KRS 65.942 to 65.956.

(2) "City" means any municipal corporation of any class incorporated in the Commonwealth.

(3) "Construct" means building reconstruction, replacement, extension, repairing, betterment, development, equipment, embellishment, or improvement.

(4) "County" means a political subdivision of the Commonwealth created and established by the laws of the Commonwealth.

(5) "Governmental agency" means any county, urban-county government, ***consolidated local government,*** city, taxing district, special district, school district, or other political subdivision of the Commonwealth or body corporate or politic or any instrumentality of the foregoing.

(6) "Governing body" means the board, council, commission, fiscal court, or other body or group that is authorized by law to acquire property for each respective governmental agency.

(7) "Lease" means a lease, lease purchase, lease with option to purchase, installment sale agreement, or other similar agreement entered into pursuant to KRS 65.942 to 65.956.

(8) "Lease price" means the total of amounts designated as payments of principal under a lease.

(9) "Net interest cost" means the total of all interest to accrue and fall due through the last payment due date on a lease, plus any discount or minus any premium included in the lease price.

(10) "Person" means any individual, corporation, organization, government or governmental subdivision, or agency, business trust, estate, trust, partnership, association, and any other legal entity.

(11) "Personal property" means personal property, appliances, equipment or furnishings, or an interest therein, whether movable or fixed, deemed by the governing body of a governmental agency to be necessary, useful, or appropriate to one (1) or more purposes of the governmental agency, but shall not include real property.

(12) "Real property" means land, buildings, fixtures, and interests in real property, deemed by the governing body of the governmental agency to be necessary, useful, or appropriate to one (1) or more purposes of the governmental agency.

(13) "Revenue" means all funds received by a governmental agency which are not taxes, including but not limited to excises, transfers, service fees, assessments, and occupational license fees.

(14) "School district" means any county school district or independent school district organized and existing pursuant to the laws of the Commonwealth.

(15) "Special district" means any agency, authority, or political subdivision of the Commonwealth which exercises less than statewide jurisdiction and which is organized for the purpose of performing governmental or other prescribed functions within limited boundaries. It includes all political subdivisions of the Commonwealth except a city, county, or school district.

(16) "State local debt officer" means the officer so designated in KRS 66.045.

(17) "Taxes" means taxes properly levied upon real or personal property.

(18) "Taxing district" means any taxing district created under KRS 65.180 to 65.190.

Section 37. KRS 66.041 is amended to read as follows:

(1) A city, urban-county, ***consolidated local government,*** or charter county shall not incur net indebtedness to an amount exceeding the following maximum percentages on the value of taxable property within the city, urban-county, ***consolidated local government,*** or charter county, as estimated by the last certified assessment previous to the incurring of the indebtedness:

(a) Cities, urban-counties, ***consolidated local governments,*** and charter counties having a population of fifteen thousand (15,000) or more, ten percent (10%);

(b) Cities, urban-counties, and charter counties having a population of less than fifteen thousand (15,000) but not less than three thousand, five percent (5%); and

(c) Cities, urban-counties, and charter counties having a population of less than three thousand (3,000), three percent

(3%).

(2) A county, which is not an urban-county***, consolidated local government,*** or charter county, or a taxing district shall not incur net indebtedness for all purposes that exceeds an amount equal to two percent (2%) of the value of the taxable property within the county or district, as estimated by the last certified assessment previous to the incurring of the indebtedness.

Section 38. KRS 66.131 is amended to read as follows:

(1) Bonds shall be signed on behalf of the issuer as follows:

(a) In the case of a city, urban-county, ***consolidated local government,*** or charter county, by the chief executive officer and attested by the clerk of the governmental body, or by the other officers as are designated to sign by the legislation authorizing the bonds;

(b) In the case of a county, by the judge/executive or other chief executive officer and attested by the fiscal court clerk, or by the officers of the county as are designated to sign by the legislation authorizing the bonds; or

(c) In the case of a taxing district, by the officer of the issuer designated by the legislation authorizing the bonds.

(2) If an officer designated to sign bonds or interest coupons pursuant to subsection (1) of this section is for any reason unable or unavailable to sign, another officer of the issuer, designated by legislation passed by the issuer, may sign instead of that officer.

(3) All signatures required by this section may be facsimile signatures.

(4) If an officer who has signed, manually or by facsimile signature, any bonds of an issuer ceases to be the officer before the bonds so have been actually delivered, the bonds may nevertheless be issued and delivered as though the person who has signed the bonds had not ceased to be the officer. Any bonds may be signed as provided in this section, on behalf of the issuer, by an officer who is the proper officer of the issuer on the actual date of signing of the bonds, notwithstanding the fact that at the date of the bonds or on the date of delivery of the bonds that person was or is not the officer of the issuer.

(5) Bonds, other than fully-registered bonds, may, in the discretion of the issuer, have interest coupons attached or otherwise appertaining. The interest coupons shall be signed on behalf of the issuer by the manual or facsimile signature of at least one (1) of the officers described in subsection (1) of this section.

Section 39. KRS 67.077 is amended to read as follows:

(1) No county ordinance shall be passed until it has been read on two (2) separate days, but ordinances may be read by title and a summary only. A proposed ordinance may be amended by the fiscal court after its first reading and prior to its adoption. All amendments shall be proposed in writing, and only by setting out in full each amended section.

(2) No county ordinance shall be passed until it has been published pursuant to KRS Chapter 424. Prior to passage, ordinances may be published by summary. Publication shall include the time, date, and place at which the county ordinance will be considered, and a place within the county where a copy of the full text of the proposed ordinance is available for public inspection. Publication of amendments to a proposed ordinance shall be required, pursuant to KRS Chapter 424, prior to its adoption, and amendments shall be filed with the full text of the proposed ordinance that is available for public inspection. If consideration for passage is continued from the initial meeting to a subsequent date, no further publication shall be necessary if at each meeting the time, date and place of the next meeting are announced.

(3) All county ordinances and amendments shall be published after passage and may be published in full or in summary form at the discretion of the fiscal court. If applicable, a sketch, drawing, or map, together with a narrative description written in layman's terms, may be used in lieu of metes and bounds descriptions. If published in summary form, publication shall contain notice of a place in the county where the full text of the ordinance or amendment is available for public inspection.

(4) Traffic, building, housing, plumbing, electrical, safety, and other self-contained codes may be adopted by reference if a copy of the code is kept with the adopting ordinance and is made a part of the permanent records of the county.

(5) The provisions of this section shall not be applicable in counties that have pursuant to KRS 67.830 adopted a charter county form of government or pursuant to KRS Chapter 67A adopted an urban-county form of government ***or pursuant to KRS Chapter 67C adopted a consolidated local government***.

Section 40. KRS 67.120 is amended to read as follows:

(1) Except in counties containing a city of the first class ***or a consolidated local government***, the county clerk, at his option, shall be clerk of the fiscal court. He shall attend its sessions and keep a full and complete record of all its proceedings, with a proper index. For his services as clerk of the fiscal court he shall receive an annual salary fixed at a reasonable amount by the fiscal court and paid in monthly installments out of the county treasury. The salary must be fixed not later than the first Monday in May in the year in which county clerks are elected. If the county clerk chooses not to be the clerk of the fiscal court, the fiscal court may select a clerk according to the provisions of subsection (2) of this section.

(2) ***Except in a consolidated local government,*** the fiscal court of each county in this Commonwealth in which there is located a city of the first class shall have a clerk, and may have a deputy clerk and may employ a stenographer, all of whom shall attend its sessions and keep a full and correct record of all the proceedings of the court, together with a complete index, and who in addition shall perform such duties as may be required of them by the court. The fiscal court shall appoint a clerk who shall serve at the pleasure of the fiscal court. The clerk shall execute bond to be approved by the fiscal

court. He shall receive an annual salary which shall be fixed by the court and paid in monthly installments out of the county levy. The court may appoint a deputy and a stenographer who shall qualify by taking the constitutional oath and who shall serve at the will of the court. The salary of the deputy clerk and the stenographer shall be fixed by the court and paid in monthly installments out of the county levy.

(3) The legislative council of a consolidated local government shall have a clerk, and may have a deputy clerk and may employ a stenographer, all of whom shall attend its sessions and keep a full and correct record of all the proceedings of the council, together with a complete index, and who in addition shall perform such duties as may be required of them by the council. The legislative council shall appoint a clerk who shall serve at the pleasure of the council. The clerk shall execute bond to be approved by the council. He or she shall receive an annual salary which shall be fixed by the council. The council may appoint a deputy clerk and a stenographer, to assist in the official duties of the clerk, who shall qualify by taking the constitutional oath and who shall serve at the will of the council. The salaries of the deputy clerks and the stenographer shall be fixed by the council.

Section 41. KRS 67.705 is amended to read as follows:

(1) Each county shall have a chief executive officer known as the county judge/executive. Only a resident of the county shall be eligible for election as county judge/executive. He shall be nominated and elected by the qualified voters of the county in the manner provided by law for the election of county officers. In case the office of county judge/executive becomes vacant by reason of death, resignation, or removal, it shall be filled with a person appointed by the Governor, in accordance with Section 152 of the Constitution, for the unexpired term. The Governor shall appoint a person to fill a vacancy in the office of county judge/executive not later than thirty (30) days after the date on which the vacancy occurs. If a vacancy occurs in the office of county judge/executive, the remaining members of fiscal court shall elect one (1) of their members to serve as temporary county judge/executive until the Governor fills the vacancy in the office, notwithstanding the provisions of KRS 61.080(2) to the contrary.

(2) The county judge/executive shall receive an annual salary pursuant to the salary schedule in KRS 64.5275, except in counties that contain an urban-county form of government ***or a consolidated local government***, where the county judge/executive shall receive the salary set by the legislative body.

(3) ***Except in counties containing a consolidated local government,*** in no event shall the county judge/executive, justice of the peace, magistrate, or commissioners who serve on the fiscal court holding office on January 2, 1978, receive less than the total annual compensation received by that official during calendar year 1976.

(4) In a county containing a consolidated local government, the county judge/executive, and magistrates or commissioners may have those duties as determined by ordinance of the consolidated local government and shall receive a salary as set by the legislative council of the consolidated local government for those duties.

Section 42. KRS 67.712 is amended to read as follows:

(1) Whenever rights, powers, privileges, immunities and responsibilities are granted to the county judge/executive in general statutes, the same ***shall be considered a grant in those counties in which a consolidated local government has been adopted pursuant to KRS Chapter 67C to the mayor of the consolidated local government, and*** shall be considered a grant in those counties in which an urban-county government has been adopted pursuant to KRS Chapter 67A to the officer in whom such functions are vested under the applicable provision of the comprehensive plan of an urban-county government, if any, and otherwise to the chief executive officer of an urban-county government.

(2) Whenever rights, powers, privileges, immunities and responsibilities are granted to the fiscal court in general statutes, the same shall ***be considered a grant in those counties in which a consolidated local government has been adopted pursuant to KRS Chapter 67C to the officer or officers in whom such functions are vested pursuant to KRS 67C.103(1) and KRS 67C.105(1), respectively, of the consolidated local government, and shall*** be considered a grant in those counties in which an urban-county government has been adopted pursuant to KRS Chapter 67A to the legislative body of the urban government.

Section 43. KRS 67.722 is amended to read as follows:

Except in a consolidated local government, the county judge/executive shall receive an annual expense allowance of three thousand six hundred dollars ($3,600) for performing his duties and fulfilling his responsibilities in the administration of the local county road program. Payment shall be made quarterly in the amount of nine hundred dollars ($900) per quarter, the first such payment to be made for the quarter ending March 31, 1978.

Section 44. KRS 67.825 is amended to read as follows:

In order to facilitate the operation of local government, to prevent duplication of services, and to promote efficient and economical management of the affairs of local government, the citizens of any county, except in a county containing ***a consolidated local government,*** a city of the first class, or an urban-county government, may vote to merge all units of city and county government into a charter county form of government or to consolidate any agency, subdivision, department, or subdistrict providing any services or performing any functions for a city or county. The merger or consolidation shall take place only after compliance with the procedures set forth in KRS 67.830.

Section 45. KRS 67.830 is amended to read as follows:

(1) The fiscal court in any county, except in a county containing a ***consolidated local government, a*** city of the first class, or

an urban-county government, and a majority of all cities within the county may adopt an ordinance to study the question of merging the county government with all other units of local government within the county to form a charter county form of government, or consolidating any agency, subdivision, department, or subdistrict providing any services or performing any functions for a city or county.

(2) In lieu of the adoption of an ordinance pursuant to subsection (1) of this section, a petition may be filed with the county clerk requesting a referendum be held on the question of the adoption of a charter county form of government or the consolidation of any agency, subdivision, department, or subdistrict providing any services or performing any functions for a city or county. The petition shall be signed by a number of registered voters equal to at least twenty percent (20%) of the number of county residents voting in the preceding regular election.

(3) Within sixty (60) days of the adoption of an ordinance pursuant to subsection (1) of this section, or within sixty (60) days of a petition being filed with the county clerk pursuant to subsection (2) of this section, the fiscal court and the city legislative body of each city within the county shall jointly appoint a commission to study the question of the adoption of a charter county form of government or the consolidation of any agency, subdivision, department, or subdistrict providing any services or performing any functions for a city or county. The fiscal court shall determine the size of the membership of the commission which shall be composed of not less than twenty (20) or more than forty (40) citizens. The actual appointment of individual members to the commission shall be governed by the following provisions:

(a) The county shall make a number of appointments equal to fifty-five percent (55%) of the membership of the commission.

(b) Each city located within the county shall join together with other cities of the same classification located within the county for the purpose of making appointments to the commission. Jointly the cities shall make a number of appointments equal to forty-five percent (45%) of the membership of the commission. Each class of city within the county shall have a minimum of one (1) representative on the commission.

(c) If there is only one (1) city of a particular classification within a county, the city shall make a number of appointments based upon the ratio of the percentage of the population residing within that city to the countywide population.

(d) The county judge/executive shall serve as a voting member of the commission and preside as its chairman.

(4) The commission shall be funded by the fiscal court and each city within the county in proportion to its ratio of membership on the commission and shall be responsible for developing a comprehensive plan for the consolidation of services and functions of cities and the county, or the formation of a charter county government that shall include, but not be limited to, the following provisions:

(a) A description of the form, structure, functions, powers, and name of the proposed charter county government;

(b) A description of the officers and their powers and duties of the proposed charter county government; and

(c) The procedures by which the original comprehensive plan may be amended.

(5) The comprehensive plan shall be consistent with the provisions of the Constitution of Kentucky and shall be advertised at least ninety (90) days before a regular election at which the voters will be asked to approve or disapprove the adoption of the comprehensive plan. The question of whether the comprehensive plan shall be adopted shall be filed with the county clerk not later than the second Tuesday in August preceding the day of the next regular election.

(6) The votes shall be counted, returns made and canvassed in accordance with the provisions of KRS Chapters 116 to 121 governing elections, and the results shall be certified by the county board of election commissioners to the county clerk. If a majority of those voting on the issue are in favor of adopting the comprehensive plan, the county board of election commissioners shall enter the fact of record and the charter county commission shall organize the charter county government or the county shall provide for the consolidation of services or functions as provided in the comprehensive plan.

Section 46. KRS 67B.010 is amended to read as follows:

The General Assembly of the Commonwealth of Kentucky determines as a legislative finding of fact that the needs of large urban areas in the field of detention, institutionalization, and rehabilitation of offenders and public wards are more specialized, acute, and distinct than the needs of smaller communities, and require programs peculiarly suited to the needs of large, urban areas, and that in order to protect, enhance, and maintain the public safety, health, and general welfare, it is necessary that ***consolidated local governments or*** fiscal courts of counties containing a city of the first class where the constitutional offices of sheriff and jailer have been consolidated, be empowered to create metropolitan correctional services departments which shall be divisions of ***the consolidated local or*** county government, and which will be vested with the duty, responsibility, and power to maintain and operate all of the correctional, detention, and rehabilitative facilities of such counties in a professional and competent manner.

Section 47. KRS 67B.020 is amended to read as follows:

As used in this chapter, the following words or terms shall have the respective meanings indicated, unless a different meaning is clearly indicated by the context:

(1) "Department" means a metropolitan correctional services department created ***or maintained*** by ***a consolidated local government or*** the fiscal court of a county containing a city of the first class, where the constitutional offices of sheriff and

jailer have been consolidated, pursuant to this chapter.

(2) "Fiscal court" means the county judge/executive and justices of the peace of a county; or the county judge/executive and three (3) county commissioners elected pursuant to KRS 67.050 and 67.060, which exercises the legislative functions of a county as provided by the provisions of the Kentucky Revised Statutes.

(3) "Correctional facility" means the county jail and all other detention and penal facilities of a county ***or consolidated local government***, whether for juvenile or adult offenders, and public wards, together with all rehabilitative facilities of ***such*** a county ***or consolidated local government*** for juvenile or adult offenders and for public wards, including facilities operated by private agencies under contract with the ***consolidated local government or*** fiscal court, as such facilities may be designated from time to time by the ***consolidated local government or*** fiscal court.

(4) "Sheriff" means the sheriff of a county ***or the sheriff in a county containing a consolidated local government*** who has been duly elected by the qualified voters as provided in Section 99 of the Constitution of the Commonwealth of Kentucky.

(5) "Jailer" means the jailer of a county ***or the jailer in a county containing a consolidated local government*** who has been duly elected by the qualified voters of a county as provided in Section 99 of the Constitution of the Commonwealth of Kentucky.

(6) "Governmental agency" means any incorporated city, division of ***a*** city***, or consolidated local*** government, including the United States of America, and its agencies and instrumentalities, situated within, or conducting public operations within, a county in which a metropolitan correctional services department has been duly established.

(7) "Consolidated local government" means a local government established pursuant to KRS Chapter 67C.

Section 48. KRS 67B.030 is amended to read as follows:

(1) A metropolitan correctional services department may be established ***or maintained*** by ***ordinance of a consolidated local government or*** by order of the fiscal court of any county containing a city of the first class, in which the constitutional offices of sheriff and jailer have been consolidated as provided in Section 105 of the Constitution of the Commonwealth of Kentucky. Said department shall, upon its creation ***or maintenance***, constitute a de jure department and division of ***the consolidated local or*** county government, having and possessing all of the enumerated powers, responsibilities, and duties hereinafter specifically set forth.

(2) Upon the creation ***or maintenance*** of a metropolitan correctional services department by the ***consolidated local government or*** fiscal court of a county containing a city of the first class, in which the constitutional offices of sheriff and jailer have been consolidated pursuant to Section 105 of the Constitution of the Commonwealth of Kentucky, all of the duties, responsibilities, and liabilities of the sheriff and jailer as set forth and contained in the Kentucky Revised Statutes, with reference to the operation and maintenance of the county jail and all county correctional facilities shall immediately be vested in the department and thereupon the sheriff and jailer shall have no further responsibility, duty and liability for the performance of said statutory duties on a personal basis; provided, however, that said sheriff shall be required to annually inspect all county correctional facilities and render reports as hereinafter provided.

Section 49. KRS 67B.040 is amended to read as follows:

The ***mayor of a consolidated local government or a*** fiscal court shall, at or subsequent to the creation ***or maintenance*** of a metropolitan correctional services department, appoint and employ an executive director ***of the metropolitan correctional services department*** who shall be well educated, trained, and experienced in the administration of correctional and rehabilitative public facilities, and who, together with assistant directors, to be appointed and employed by the ***mayor or*** fiscal court, shall have full and complete management of the department and all of its operations. The executive director of the department, together with all assistant directors shall be directly appointed by, and shall serve at the pleasure of the ***mayor or*** fiscal court, and may be removed and replaced upon order of the ***mayor or*** fiscal court.

Section 50. KRS 67B.050 is amended to read as follows:

The department shall, subject to the approval and authorization of the ***consolidated local government or*** fiscal court, generally administer, operate, and maintain all county correctional facilities, including facilities operated by private agencies under contract with the ***consolidated local government or*** fiscal court, and formulate and implement necessary correctional and rehabilitative programs. In carrying out its duties, the department shall have and possess, subject to the approval and authorization of the ***consolidated local government or*** fiscal court, all powers necessary to effectuate its purposes, including, but not by way of limitation the following:

(1) To prepare an annual budget with reference to the operations of the department for submission to the ***consolidated local government or*** fiscal court.

(2) To authorize all expenditures of the department in conformity with the annual budget, as approved by the ***consolidated local government or*** fiscal court, all such expenditures to be submitted for ***consolidated local government or*** fiscal court approval as in the case of all other county ***or consolidated local government*** agencies and departments.

(3) To prepare and submit not less than annually a report of all the activities, programs, and expenditures of the department to the ***consolidated local government or*** fiscal court.

(4) To employ and dismiss employees as may be necessary for the proper management and operation of the department and of the correctional facilities which are governed by the department, subject to the department merit system.

(5) To promulgate comprehensive rules, regulations, and bylaws for the regulation, administration, maintenance, and operation of the department, which rules, and regulations and bylaws shall be subject to approval by the ***consolidated local government or*** fiscal court.

(6) To formulate and implement penal, correctional, and rehabilitative programs, including the power to enter into contracts with private agencies for the operation of correctional or detention facilities, all of such facilities and programs to be subject to approval by the ***consolidated local government or*** fiscal court.

(7) To comply with all statutory requirements contained in the Kentucky Revised Statutes with reference to the operation, maintenance, and upkeep of all correctional facilities.

(8) To provide for the humane care, treatment, and feeding of all inmates of all correctional facilities of the county.

(9) To enter into contracts with private or governmental agencies regarding matters of correctional and rehabilitative import, including the operation, maintenance, and upkeep of correctional or detention facilities.

(10) To apply for, and accept, grants in aid from any public or private agency.

Section 51. KRS 67B.060 is amended to read as follows:

Upon the creation ***or maintenance*** of a metropolitan correctional services department by a ***consolidated local government or*** county fiscal court, ***the consolidated local government or***[~~said~~] fiscal court may create ***or maintain*** a departmental merit system, and for that purpose, establish***, maintain,*** or designate an appropriate board, commission, or committee, whose duties it shall be to classify and examine applicants seeking employment as officers or employees of the department, and in addition, to promulgate rules and regulations governing the classification, qualification, examination, appointment, promotion, demotion, suspension, and other disciplinary action within the department, with reference to all personnel of the department; and in addition thereto, to hold such hearings, public and executive, as may be reasonably required in the operation of a viable employment protection and career development merit system. All employees of the department below the rank of assistant director shall be covered by the merit system.

Section 52. KRS 67B.070 is amended to read as follows:

The sheriff of any county in which a department has been established ***or maintained*** shall, not less than annually, inspect all correctional facilities administered by the department, and shall make a written report to the ***consolidated local government or*** fiscal court and to the secretary of corrections regarding the general operation of all such correctional facilities, which report shall furnish in detail information regarding the number of prisoners, detainees and public wards who are inmates of each correctional facility; the offenses or causes for their incarceration; the length of stay with reference to same; and such further reports regarding rehabilitative programs instituted and being carried on by the department as may be required for a complete accounting and report.

Section 53. KRS 67C.101 is amended to read as follows:

(1) The governmental and corporate functions vested in any city of the first class shall, upon approval by the voters of the county at a regular or special election, be consolidated with the governmental and corporate functions of the county containing the city. This single government replaces and supersedes the governments of the pre-existing city of the first class and its county.

(2) ***(a)*** A consolidated local government shall have all powers and privileges that cities of the first class and their counties are, or may hereafter be, authorized to exercise under the Constitution and the general laws of the Commonwealth of Kentucky, including but not limited to those powers granted to cities of the first class and their counties under their respective home rule powers.

(b) A consolidated local government shall continue to exercise these powers and privileges notwithstanding repeal or amendment of any of the laws upon which the powers and privileges are based unless expressly repealed or amended for consolidated local governments.

(c) In addition, a consolidated local government shall have other powers and privileges as the government may be authorized to exercise under the Constitution and general laws of the Commonwealth of Kentucky.

(d) A consolidated local government is neither a city government nor a county government as those forms of government exist on the effective date of this Act, but it is a separate classification of government which possess the greater powers conferred upon, and is subject to the lesser restrictions applicable to, county government and cities of the first class under the Constitution and general laws of the Commonwealth of Kentucky.

(e) A consolidated local government shall be accorded the same sovereign immunity granted counties, their agencies, officers, and employees.

(3) A consolidated local government shall have power and authority to:

(a) Levy and collect taxes upon all property taxable for state purposes within the territorial limits of the consolidated local government not exempt by law from taxation;

(b) License, tax, and regulate privileges, occupations, trades, and professions authorized by law, to be uniform throughout the jurisdiction;

(c) Make appropriations for the support of the consolidated local government and provide for the payment of all debts and expenses of the consolidated local government and the debts and expenses of the county and city of which it is the successor;

(d) Issue or cause to be issued bonds and other debt instruments that counties containing a city of the first class are authorized to issue or enter into all other financial transactions as may be permitted by law;

(e) Purchase, lease, construct, maintain, or otherwise acquire, hold, use, and operate any property, real or personal, for any public purpose, and sell, lease, or otherwise dispose of any property, real or personal, belonging to a consolidated local government;

(f) Exercise the power of eminent domain for any public purpose subject to the limitations and exceptions prescribed by the Constitution and the general laws of the Commonwealth of Kentucky;

(g) Accept federal or state funds and other sources of revenue that are applicable to counties and cities of the first class;

(h) Establish, erect, maintain, and operate facilities for the confinement, detention, and rehabilitation of persons convicted of the violation of the ordinances and laws of a consolidated local government or the Commonwealth of Kentucky;

(i) Pass and enforce by fines and penalties, if necessary, all ordinances, not inconsistent with law, as are expedient in maintaining the peace, good government, health, and welfare of the inhabitants of the county and prevent, abate, and remove nuisances;

(j) Collect and dispose of garbage, junk, and other refuse, and regulate the collection and disposal of garbage, junk, and other refuse by others;

(k) Provide for the redevelopment, renewal, or rehabilitation of blighted, deteriorated, or dilapidated areas;

(l) Enforce zoning regulations;

(m) Enter into contracts and agreements with other governmental entities and with private persons, firms, and corporations;

(n) Adopt procedures for collective bargaining with its employees and for the certification of exclusive bargaining agents for groups of employees in accordance with the Constitution and general laws of the Commonwealth of Kentucky and its ordinances; and

(o) Exercise all other powers and authorities granted to counties and cities of the first class by the general laws of the Commonwealth of Kentucky.

(4) The powers of the consolidated local government shall be construed broadly in favor of the consolidated local government. The specific mention, or failure to mention, of particular powers in this section shall not be construed as limiting in any way the general or specific powers of a consolidated local government.

(5) A consolidated local government shall have power and jurisdiction throughout the total area embraced by the official jurisdictional boundaries of the county.

(6) A consolidated local government shall be known as ~~[Greater]~~............***/.....................County Metro Government***, which shall be the ***combination of the names***~~[name]~~ of the largest city in existence on the date of the adoption of the consolidated ***local*** government ***and the county***.

Section 54. KRS 67C.103 is amended to read as follows:

(1) The legislative authority of a consolidated local government, except as otherwise specified in KRS 67C.101 to 67C.137, shall be vested in a consolidated local government council. The members of the council shall be nominated and elected by district. There shall be only one (1) council member elected from each council district.

(2) There shall be twenty-six (26) council districts. The initial boundaries, population, and numerical designation of the council districts shall be as specified by KRS 67C.135. The population of the council districts shall be as nearly equal as is reasonably possible. For any newly consolidated local governments whose officials take office in 2003, upon taking office, the legislative council may take action to adjust the boundaries and population of the districts in order to equalize the population of the districts which may have changed as a result of recent census information. Any changes made to alter the boundaries of council districts shall be based on the population of the county as determined by the most recent United States Census or official census estimates as provided by the United States Bureau of the Census.

(3) Following the official publication of each decennial census by the United States Bureau of the Census for the area embraced by a consolidated local government, the council shall adopt an ordinance, if necessary, to redistrict the council districts. A redistricting ordinance shall provide for the distribution of population among the council districts as nearly equal as is reasonably possible. Every council district shall be compact and contiguous and shall respect existing neighborhood, community, and city boundaries whenever possible.

(4) The consolidated local government council members shall serve for a term of four (4) years beginning on the first Monday in January following their election except that the initial election of council members shall be in a manner as to provide for staggered terms for council members. At the initial election of the members of a consolidated local government council, those representing even-numbered districts shall be elected for a two (2) year term. Those representing odd-numbered districts shall be elected for a four (4) year term. Thereafter, all council members shall be elected for four (4) year terms.

(5) The members of a consolidated local government council shall be nominated and elected from the district in which they reside in partisan elections. After the initial terms of office of the first elected council members, council members shall be elected in the same election years as other local government officials as regulated by the regular election laws of the Commonwealth and as provided in subsection (4) of this section.

(6) No person shall be eligible to serve as a member of a consolidated local government council unless he or she is at least twenty-one (21) years old, a qualified voter, and a resident within the territory of the consolidated local government and the district that he or she seeks to represent for at least one (1) year immediately prior to the person's election. A council member shall continue to reside within the district from which he or she was elected throughout the term of office.

(7) The presiding officer of a consolidated local government council shall be a president who shall be chosen annually by a majority vote of the entire council from among its members at the first meeting of the council in January. The council president has the right to introduce any resolution or recommend any ordinance and shall be entitled to vote on all matters.

(8) The consolidated local government council shall upon notice meet within seven (7) days after its members have taken office, and shall thereafter hold at least two (2) regular meetings per month. ***No newspaper notice shall be required for regular or special meetings of the consolidated local government council. However, notice of all meetings of the council and all meetings of committees of the council shall be held pursuant to KRS 61.805 to 61.850.***

(9) A majority of the members of the consolidated local government council shall constitute a quorum, but a smaller number may adjourn from day to day. The consolidated local government council may enforce the attendance of members by rules or ordinances with appropriate fines. The mayor or two-thirds (2/3) of the entire membership of the council may call a special meeting at any time. Meetings shall be held in such places in the county as are provided by ordinance, and the place of meetings shall not be changed except by an ordinance for which two-thirds (2/3) of the members of the consolidated local government council have voted.

(10) The council shall determine its own rules and order of business, and keep and provide a public record of its proceedings. The council shall provide for the publication of all ordinances in a composite code of ordinances.

(11) Council ordinances that prescribe penalties for their violation shall be enforced through the entire area of the consolidated local government unless:

(a) Otherwise provided by statute; or

(b) The legislative body of any city within the consolidated local government area has adopted an ordinance pertaining to the same subject matter that is the same as or more stringent than the standards set forth in the consolidated local government's ordinance.

(12) In the case of a vacancy on the consolidated local government council by reason of death, resignation, or removal, ***the council by majority vote of the membership of the council shall elect a qualified resident of the council district not later than thirty (30) days after the date the vacancy occurs. Should the council fail to elect, by majority vote of the membership of the council, a qualified person to fill the vacancy within thirty (30) days, the mayor of the consolidated local government shall fill the vacancy by appointment of a qualified person for the unexpired term***[~~it shall be filled by appointment of the Governor, in accordance with Section 152 of the Constitution, for the unexpired term. Upon notification of the vacancy by the county clerk, the Governor shall appoint a person to fill a vacancy on the consolidated local government council not later than thirty (30) days after the date on which the vacancy occurs~~].

(13) All legislative powers of a consolidated local government are vested in the consolidated local government council. The term "legislative power" is to be construed broadly and shall include the power to:

(a) Enact ordinances, orders, and resolutions, and override a veto of the mayor by a two-thirds (2/3) majority of the membership of the legislative council;

(b) Review the budgets of and appropriate money to the consolidated local government;

(c) Adopt a budget ordinance;

(d) Levy taxes, subject to the limitations of the Constitution and the laws of the Commonwealth of Kentucky;

(e) Establish standing and temporary committees; and

(f) Make independent audits and investigations concerning the affairs of the consolidated local government.

(14) The consolidated local government council shall be known as the legislative council of[~~ Greater~~] ....***/................. County Metro Government***, which shall be ***a combination of***[~~completed by~~] the ***names***[~~name~~] of the largest city in existence in the county on the date of the ***adoption of the consolidated local government and the county***[~~consolidation~~].

Section 55. KRS 67C.105 is amended to read as follows:

(1) All executive and administrative power of the government shall be vested in the office of the mayor. The term "executive and administrative power" shall be construed broadly. The mayor shall be the chief executive of a consolidated local government formed under the provisions of KRS 67C.101 to 67C.137.

(2) The mayor shall be nominated and elected in partisan elections for a term of four (4) years in the same election years as other local government officials as regulated by the regular election laws of the Commonwealth. The mayor shall assume

office on the first Monday in January following his or her election. He or she shall serve until a successor qualifies and may serve for no more than three (3) consecutive terms after which time he or she shall be prohibited from running for election or being appointed as mayor for a period of at least four (4) years.

(3) The mayor shall be at least twenty-five (25) years old, a qualified voter, a member of his or her political party, and a resident of the territory encompassing the consolidated local government for a period of at least one (1) year prior to his or her election as mayor. The mayor shall continue to reside within the geographic boundary of the consolidated local government throughout his or her term of office.

(4) Except as otherwise provided in KRS 67C.101 to 67C.137, the mayor shall have all the power and authority that the mayor of the city of the first class and the county judge/executive exercised under the Constitution and the general laws of the Commonwealth of Kentucky prior to the consolidation.

(5) The mayor is authorized to supervise, administer, and control all departments and agencies as may be created by KRS 67C.101 to 67C.137 or created by ordinance. The mayor shall appoint all department and agency directors. The appointees shall serve at the pleasure of the mayor. Specifically, the mayor shall:

(a) Prepare and submit an annual report coinciding with the fiscal year, on the state of the consolidated local government, to be presented at a public meeting of the council;

(b) Submit an annual budget;

(c) Oversee the administration and implementation of the adopted budget ordinance;

(d) Enforce the ordinances of the consolidated local government;

(e) Supervise all officers, agents, employees, cabinets, departments, offices, agencies, functions, and duties of the consolidated local government;

(f) Call special meetings of the consolidated local government council;

(g) Appoint and remove his or her own staff at his or her own pleasure;

(h) Execute written contracts or obligations of the consolidated local government; and

(i) Approve or veto ordinances and resolutions adopted by the consolidated local government council.

(6) In case the office of mayor becomes vacant by reason of death, resignation, or removal, ***the members of the legislative council of the consolidated local government shall by a majority vote of the membership of the council elect a qualified person to fill the vacancy in the office of the mayor not later than thirty (30) days after the date on which the vacancy occurs for the unexpired term.***~~[it shall be filled by appointment of the Governor, in accordance with Section 152 of the Constitution, for the unexpired term. The Governor shall appoint a person to fill a vacancy in the office of mayor not later than thirty (30) days after the date on which the vacancy occurs. If a vacancy occurs in the office of mayor,]~~ The members of the legislative body of the consolidated local government ***may***~~[shall]~~ elect one (1) of their members to serve as temporary mayor until ***they are able to hold the election to fill the vacancy for the unexpired term. If the legislative council fails to elect a person to fill the vacancy within thirty (30) days after the vacancy occurs,*** the Governor ***shall fill***~~[fills]~~ the vacancy in the office ***by appointment of a qualified person for the unexpired term***~~[, notwithstanding the provisions of KRS 61.080(2) to the contrary]~~.

(7) The mayor of a consolidated local government shall be known as the mayor of ~~[Greater]~~ ....***/................ County Metro Government***, which shall be ***a combination of***~~[completed by]~~ the ***names***~~[name]~~ of the largest city in existence in the county on the date of the ***adoption of the consolidated local government and the county***~~[consolidation]~~.

Section 56. KRS 67C.107 is amended to read as follows:

(1) Upon public approval at a regular or special election of a consolidation of a city of the first class and its county, all regular employees of the city of the first class and the county shall become employees of the consolidated local government.

(2) All rights, privileges, and protections attributed to all regular employees by a civil service or classified service system established by a city of the first class or a county containing a city of the first class shall continue in effect until changed by statute or ordinance when applicable.

(3) A consolidated local government shall recognize and shall continue to bargain with any bargaining unit consisting of public employees recognized by either the previously existing city or county government.

(4) All labor contracts ***under renegotiation or*** in existence in a city of the first class or a county containing a city of the first class on the effective date of a local government consolidation shall***, if being renegotiated, continue to be renegotiated by the consolidated local government, and if in existence,*** continue in effect until the expiration of the terms of the contracts at which time new contracts shall be renegotiated between the consolidated local government and affected labor representatives.

(5) Upon the establishment of a consolidated local government, all rights, privileges, and protections of beneficiaries of a policemen's retirement fund and a firefighter's pension fund in a city of the first class shall continue in effect until all benefits due each beneficiary have been paid.

Section 57. KRS 67C.109 is amended to read as follows:

~~[A consolidated local government shall be deemed a county and shall be deemed an incorporated city of the first class under the~~

~~Constitution and the general laws of the Commonwealth of Kentucky~~]For the purpose of applying for or receiving any aid or grant-in-aid from the Commonwealth of Kentucky or the government of the United States***, a consolidated local government shall be deemed a county and shall be deemed an incorporated city of the first class under the Constitution and general laws of the Commonwealth of Kentucky***.

Section 58. KRS 67C.115 is amended to read as follows:

(1) Upon the successful passage of the question to consolidate a city of the first class and its county, ***all***[~~the~~] ordinances[~~, regulations,~~] and ***resolutions***[~~orders~~] of the previously existing city of the first class and ***all ordinances and resolutions of*** the county shall ***become effective ordinances and resolutions of***[~~initially govern~~] the consolidated local government ***until repealed, modified, or amended in accordance with the following order of precedence:***[~~along with any new ordinances, resolutions, or orders that may be enacted.~~]

(a) If a city ordinance conflicts with a county ordinance, the county ordinance shall prevail and shall become effective countywide; and

(b) If a city ordinance addresses a subject matter not addressed by a county ordinance, the city ordinance shall become effective countywide; and

(c) If a county ordinance addresses a subject matter not addressed by a city ordinance, the county ordinance shall become effective countywide.

Notwithstanding paragraph (a) of this subsection and in the event a uniform land development code has not been jointly adopted by the city and county prior to the effective date of a consolidated local government, the historic preservation and landmarks ordinances, and the zoning regulations of the city adopted pursuant to KRS Chapter 100, shall prevail and become effective countywide.

(2) Ordinances and resolutions of either the city of the first class or its county in existence on the effective date of a local government consolidation which conflict with other provisions of this chapter shall be void. Except as provided in KRS 67C.123(2), any ordinance, resolution, or order in effect in a city of the first class or its county on the date a consolidated local government takes effect shall expire five (5) years from that date unless amended or reenacted by the consolidated local government.

(3) All ordinances of the city and county creating agencies and boards and interlocal agreements shall survive and be deemed reenacted by the council. All members may serve the balance of the terms to which they were appointed and until their successors are appointed and duly qualified according to law.

(4) For purposes of this section, a conflict shall be deemed to exist between ordinances or resolutions, or the provisions of this Chapter 67C, where any rights, remedies, entitlements, or the enforcement thereof cannot reasonably be reconciled.

[~~(2) Any ordinance, regulation, or order in effect in a city of the first class or its county on the date of the adoption of a consolidated local government shall expire five (5) years from the date the new government takes effect unless amended or reenacted by the new consolidated local government.~~]

(5)[~~(3)~~] The county attorney shall serve as the legal advisor and representative to the consolidated local government ***and except for those duties pertaining to fiscal court set forth in KRS 69.210, the county attorney shall retain and exercise all other duties, powers, and rights delegated to that office by law***.

[~~(4) The county attorney shall review all ordinances, resolutions, and orders in effect in the city of the first class and the county in order to identify conflicting language between the varying ordinances, resolutions, and orders. The county attorney shall present a listing of the conflicts between the ordinances, resolutions, and orders to the legislative body of the consolidated local government at its first meeting.~~]

(6) Wherever the words "county judge" or "county judge/executive" appear in any resolution or ordinance in existence in a city of the first class or in a county containing a city of the first class as of the effective date of the establishment of a consolidated local government, they shall be deemed to mean the mayor of the consolidated local government.

Section 59. KRS 67C.121 is amended to read as follows:

(1) All offices provided for in Section 99 ***and 144*** of the Constitution of Kentucky shall remain in existence upon the consolidation of a city of the first class with its county. However, all existing powers and duties of these offices shall be assigned to the consolidated local government.[~~ To the extent permitted by the Constitution of Kentucky, the office of county judge/executive, justices of the peace, and county commissioners may be statutorily limited in a consolidated local government.~~]

(2) Nothing in KRS 67C.101 to 67C.137 shall alter or affect the election or term of any county court clerk, county attorney, sheriff, jailer, coroner, surveyor, or assessor. Nor shall any provision of KRS 67C.101 to 67C.137 be construed to alter or affect the powers, duties, or responsibilities of these officers as prescribed by the Constitution and laws of the Commonwealth of Kentucky. Any funding responsibilities or oversight of any constitutional officers or their employees previously exercised by the county, which shall include the approval of the annual budget of the sheriff's and the county clerk's offices, shall be transferred to the consolidated local government.

Section 60. KRS 67C.123 is amended to read as follows:

(1) The tax structure, tax rates, and level of services in effect in the city of the first class and its county upon the adoption of a consolidated local government shall remain in effect after the adoption of the consolidated local government and shall remain the same until changed by the newly elected consolidated local government council.

(2) Notwithstanding the provisions of KRS 67C.115(2), all contracts, bonds, franchises and other obligations of the city of the first class and of the county in existence on the effective date of a consolidated local government shall continue in force and effect as obligations of the consolidated local government and the consolidated local government shall succeed to all rights and entitlements thereunder. All conflicts in the provisions of the contracts, bonds, franchises, or other obligations shall be resolved in a manner that does not impair the rights of any parties thereto.

Section 61. KRS 68.130 is amended to read as follows:

A consolidated local government or the fiscal court of each county containing a city of the first class may appoint an auditor and an assistant auditor, to hold office at the pleasure of the ***consolidated local government or*** fiscal court. The auditor and assistant auditor shall each receive an annual salary to be fixed by the ***consolidated local government or*** fiscal court and paid[~~ in monthly installments~~] out of the ***consolidated local government or*** county levy. They shall each execute bond with an incorporated surety company authorized and qualified to become surety on bonds in this state, or with at least two (2) solvent and responsible individuals as surety, the bonds and sureties to be approved by the ***consolidated local government or*** fiscal court.

Section 62. KRS 68.140 is amended to read as follows:

The auditor and assistant auditor shall make regular audits of all accounts and records of the ***consolidated local government or*** fiscal court and of all other agencies whose revenue is provided in whole or in part from taxes levied or funds appropriated by the ***consolidated local government or*** fiscal court, and shall cause correct accounts and records to be kept of all receipts and disbursements of county funds, make periodical reports as required by the ***consolidated local government or*** fiscal court, and perform any other related duties imposed upon them by the ***consolidated local government or*** fiscal court.

Section 63. KRS 68.160 is amended to read as follows:

Upon the establishment of a consolidated local government in a county which contained a city of the first class, the mayor may, every four (4) years, appoint a purchasing agent for a term of four (4) years. The fiscal court of each county containing a city of the first class shall, every four (4) years, beginning in 1928, appoint a purchasing agent for a term of four (4) years, the term of the first purchasing agent to begin May 1, 1928.

Section 64. KRS 69.130 is amended to read as follows:

In any county containing a ***consolidated local government or*** city of the first class***,*** the ***consolidated local government or*** fiscal court shall provide an automobile for the use of the Commonwealth's attorney to assist him ***or her*** in his ***or her*** official duties, to be paid for out of the[~~ county~~] levy ***of the consolidated local government or county***. The necessary expenses incurred in running, keeping and repairing the automobile for official work shall be paid out of the[~~ county~~] levy ***of the consolidated local government or county*** upon requisition for such expenses by the Commonwealth's attorney.

Section 65. KRS 69.210 is amended to read as follows:

(1) The county attorney shall attend the fiscal court ***or consolidated local government*** and conduct all business[~~ in that court~~] touching the rights or interests of the county ***or consolidated local government***, and when so directed by the fiscal court ***or consolidated local government,*** he ***or she*** shall institute, defend and conduct all civil actions in which the county ***or consolidated local government*** is interested before any of the courts of the Commonwealth.

(2) The county attorney shall attend to the prosecution in the juvenile session of the District Court of all proceedings held pursuant to petitions filed under KRS Chapter 610 and over which the juvenile session of the District Court has jurisdiction pursuant to KRS Chapter 610.

(3) The county attorney shall give legal advice to the fiscal court ***or consolidated local government*** and the several county ***or consolidated local government*** officers in all matters concerning any county ***or consolidated local government*** business within their jurisdiction. He ***or she*** shall oppose all unjust or illegally presented claims.

(4) A county attorney serving in a county***, consolidated local government,*** or urban-county which is part of a judicial circuit described by KRS 69.010(2), in addition to the duties in subsections (1) and (2) of this section, shall have the following duties:

 (a) He ***or she*** shall attend all civil cases and proceedings in his ***or her*** county in which the Commonwealth is interested; and

 (b) He ***or she*** shall advise the collector of money due the Commonwealth in the county ***or consolidated local government*** in regard to motions against delinquent collecting officers for failing to return executions, and shall prosecute the motions. In no case shall the county attorney take a fee or act as counsel in any case in opposition to the interest of the county ***or consolidated local government***.

Section 66. KRS 69.320 is amended to read as follows:

In counties containing a ***consolidated local government or*** city of the first class***,*** the stenographer for the county attorney shall have the same power of administering an oath as a notary public.

Section 67. KRS 70.030 is amended to read as follows:

(1) The sheriff may appoint his ***or her*** own deputies and may revoke the appointment at his ***or her*** pleasure except where that revocation is prohibited by the provisions of KRS 70.260 to 70.273. In a county containing a ***consolidated local government or*** city of the first class with a deputy sheriff merit board, the term of office of a deputy shall continue from sheriff to sheriff unless a deputy is removed according to the provisions of KRS 70.260 to 70.273. Before any deputy executes the duties of his ***or her*** office, he ***or she*** shall take the oath required to be taken by the sheriff.

(2) The sheriff may appoint nonsworn clerical, technical, professional, and support personnel to assist him ***or her*** in the performance of the duties of his ***or her*** office. All nonsworn personnel shall serve at the pleasure of the sheriff.

(3) No sheriff whose county has adopted a deputy sheriff merit board under KRS 70.260 shall appoint a deputy who is a member of the immediate family of the sheriff. The term "member of the immediate family" has the meaning given in KRS 70.260.

(4) A sheriff's office may, upon the written request of the sheriff, participate in the Kentucky Law Enforcement Foundation Fund Program authorized by KRS 15.410 to 15.510 without the county establishing a deputy sheriff merit board. This subsection shall not prohibit the sheriff from requesting the ***consolidated local government or the*** fiscal court to establish a deputy sheriff merit board.

Section 68. KRS 70.260 is amended to read as follows:

(1) The primary legislative body of each county may enact an ordinance creating a deputy sheriff merit board, which shall be charged with the duty of holding hearings, public and executive, in disciplinary matters concerning deputy sheriffs. For the purpose of KRS 70.260 to 70.273, the primary legislative body of each county that does not have an urban-county***,*** ***consolidated local government,*** or charter county government shall be the fiscal court.

(2) The reasonable and necessary expenses of the board, including the funds necessary to retain an attorney to advise the board on legal matters, shall be paid out of the fees and commissions collected by the sheriff. If the fees and commissions are not sufficient to pay the expenses of the board and the other expenses authorized by statute to be paid from these fees and commissions, the sheriff may negotiate with the primary legislative body to determine a method of paying all or part of the expenses of the board.

(3) The board shall consist of five (5) members, two (2) members appointed by the county judge/executive or the chief executive officer of an urban-county government ***or the chief executive officer of a consolidated local government pursuant to the provisions of Section 1 of this Act*** with approval by the primary legislative body, two (2) members appointed by the county sheriff, and one (1) member elected by the deputy sheriffs of the county. Each board appointee shall be at least thirty (30) years of age and a resident of the county. No person shall serve on the board who is a deputy sheriff or who holds any elected public office. No person shall be appointed to the board who is a member of the immediate family of the sheriff of the county served by the board. The members of the board shall not receive a salary but shall receive reimbursement for necessary expenses.

(4) All appointments shall be for two (2) years, and any vacancies shall be filled by the sheriff or county judge/executive, or the chief executive officer of an urban-county government ***or consolidated local government*** responsible for the appointment of the departing board member.

(5) The board shall elect a chairman from its membership and keep an accurate record of its proceedings.

(6) The board shall meet when a disciplinary matter concerning a deputy sheriff is brought to its attention or at other times at the discretion of the board, upon notification of its members.

(7) Three (3) members shall constitute a quorum in all matters which may come before the board.

(8) For the purpose of this section, "member of the immediate family" means a person's father, mother, brother, sister, spouse, son, daughter, aunt, uncle, son-in-law, or daughter-in-law.

(9) An ordinance, adopted under subsection (1) of this section by a county ***or consolidated local government***, may exclude deputy sheriffs who serve in policy-making or confidential positions from coverage by the merit system. If the ordinance makes this exclusion, a deputy sheriff who is covered by the merit system and who accepts an appointment in a policy-making or confidential position shall be deemed to have received a leave of absence from the merit system during the incumbency of that position. If he ceases to serve in a policy-making or confidential position but continues to serve as a deputy, he shall be restored to coverage at the same classification and rank that he held prior to his policy-making position under the merit system. A deputy who is not covered by the merit system at the time he is appointed to a policy-making or confidential position shall be deemed not to be part of the merit system and shall not be included in the merit system when he ceases to serve in that position.

Section 69. KRS 70.262 is amended to read as follows:

(1) In any county containing a ***consolidated local government or*** city of the first class that has adopted a merit system under KRS 70.260 to 70.273, deputies subject to the merit system may organize, form, join, or participate in organizations in order to engage in lawful concerted activities for the purpose of collective bargaining or other mutual aid and protection, and to bargain collectively through a representative of their own free choice. Deputies shall also have the right to refrain from any or all of these activities but shall be subject to the lawful provisions of any collective bargaining agreement entered into under this section. Strikes by deputies of any collective bargaining unit shall be prohibited at any time.

(2) In any county containing a ***consolidated local government or*** city of the first class that has adopted a merit system under KRS 70.260 to 70.273, the sheriff shall contract with a representative of the deputies described in subsection (1) of this section employed by the sheriff where the representative has established representation of a majority of the deputies, with respect to wages, hours, and terms and conditions of employment, including execution of a written contract incorporating any agreement reached between the sheriff and the representative. The sheriff shall not be required to bargain over matters of inherent managerial policy.

Section 70. KRS 70.320 is amended to read as follows:

(1) The appointment of deputy constables shall be authorized only in counties containing a first or second-class city ***or a consolidated local government***. In[~~ such~~] counties ***containing a city of the first or second class or a consolidated local government,*** each constable may appoint one (1) or more deputies with the consent of the county judge/executive ***or the mayor, in a consolidated local government, as the case may be***. The constable and his ***or her*** surety are liable on his ***or her*** bond for all the acts and omissions of his ***or her*** deputies.

(2) Deputy constables may be removed at any time for any cause deemed sufficient by the constable by order of the county judge/executive ***or the mayor in a consolidated local government, as the case may be,*** entered after filing of a written direction by the constable.

(3) Each deputy constable in counties containing a ***consolidated local government or*** city of the first class shall be compensated for his ***or her*** services by salary fixed by the ***consolidated local government or*** fiscal court, and paid out of the[~~ county~~] levy ***of the consolidated local government or county***.

Section 71. KRS 70.542 is amended to read as follows:

(1) Except in counties containing a ***consolidated local government or*** city of the first class, or counties containing an urban-county government, the fiscal court of any county in which there is an established county police force pursuant to KRS 70.540, may provide for the establishment or abolishment of an auxiliary county police force to perform duties within the county upon such terms and conditions as the fiscal court deems necessary and proper. The fiscal court shall prescribe the number of members comprising such auxiliary county police force, and prescribe rules and regulations that shall govern the powers and duties of the members of such auxiliary county police force, unless otherwise provided in subsection (2) of this section.

(2) A member of an auxiliary county police force shall:

(a) Be appointed by the county judge/executive and serve at his ***or her*** pleasure;

(b) Be answerable and under the direction of the county judge/executive, except when the county judge/executive delegates such authority to the chief officer of the county police force;

(c) Not receive any compensation or benefits for his ***or her*** time or service, except that the fiscal court may provide for the payment of any reasonable and necessary expenses incurred by a member of the auxiliary county police force in the conduct of his ***or her*** official duties; and

(d) Be appointed regardless of race, color, creed or position.

(3) Before any person is appointed as a member of an auxiliary county police force, he ***or she*** shall give bond to the county judge/executive in an amount as prescribed by the fiscal court. The fiscal court may authorize the premium therefor to be paid out of the general funds of the county.

Section 72. KRS 71.110 is amended to read as follows:

The offices of sheriff and jailer in counties containing a ***consolidated local government, a*** city of the first class***,*** or an urban-county government shall be consolidated, but the office of sheriff shall be retained; and the sheriff hereafter in such counties shall perform the duties of jailer.

Section 73. KRS 72.435 is amended to read as follows:

In the event it is necessary for the coroner to order a body to be transported or exhumed, payment[~~ therefor~~] shall be made by the fiscal court***, consolidated local government,*** or urban-county government, whichever is appropriate, upon certification by the coroner that the services were rendered.

Section 74. KRS 72.450 is amended to read as follows:

(1) A coroner who has possession of a dead body or a part thereof shall make a bona fide attempt to notify the spouse, if any, or next of kin of the decedent's death. In the event the coroner is unable to locate the spouse, if any, or next of kin, he ***or she*** may cause the body to be buried at the expense of the fiscal court***, consolidated local government,*** or urban-county government, whichever is appropriate.

(2) In the event the body is buried at public expense, the coroner shall take possession of all money or other property found on or belonging to the decedent and shall deliver same to the fiscal court***, consolidated local government,*** or urban-county government, whichever is appropriate. Any money or other property found on the body of the decedent or belonging to him ***or her*** shall be delivered by the coroner to the fiscal court***, consolidated local government,*** or urban-county government, whichever is appropriate, to help defray burial expenses. Any excess funds shall escheat to such governmental agency one (1) year thereafter.

(3) In lieu of having an unclaimed body buried at public expense, the coroner may deliver such body or part thereof to a state medical school in accordance with the provisions of KRS 311.300 to 311.350.

Section 75. KRS 72.455 is amended to read as follows:

The fiscal court, ***consolidated local government,*** or urban-county government, whichever is appropriate, shall pay the expense of conducting a search for a body where such search has been ordered by the coroner.

Section 76. KRS 75.031 is amended to read as follows:

(1) (a) Upon creation of a fire protection district or a volunteer fire department district as provided in KRS 75.010, the affairs of the district shall be conducted by the board of trustees consisting of seven (7) members, four (4) to be elected by the members of the district as hereinafter set out and three (3) to be appointed by the county judge/executive ***or mayor in a consolidated local government pursuant to the provisions of Section 1 of this Act***. Two (2) members of the board of trustees shall be elected by the members of the firefighters of the district and shall be members of the district. No more than one (1) of the two (2) firefighter trustees may be an employee of the fire protection district or volunteer fire department district. Two (2) members of the board of trustees shall be property owners who own real or personal property which is subject to the fire protection tax pursuant to KRS 75.040, who personally reside in the district, and who are not active firefighters and shall be elected by the property owners of the district. Property owners voting to select representatives to the board of trustees shall have attained the age of eighteen (18). The county judge/executive of the county in which the greater part of the district is located shall, with the approval of the fiscal court, appoint three (3) members of the board of trustees. In counties containing a city of the first class, trustees appointed by the county judge/executive to serve in volunteer fire prevention districts shall reside within the boundaries of that county. ***In counties governed by a consolidated local government, trustees appointed by the mayor to serve in volunteer fire prevention districts shall reside within the boundaries of the consolidated local government.*** At the first election held after the district is formed, one (1) firefighter shall be elected to serve on the board of trustees for a period of one (1) year and one (1) for a period of three (3) years, and one (1) nonfirefighter property owner shall be elected to serve on the board of trustees for a period of two (2) years and one (1) for a period of four (4) years. On the expiration of the respective terms, the successor to each shall have the same qualifications as his or her predecessor and shall be elected for a term of four (4) years. The original appointed members of the board of trustees shall be appointed for terms of one (1), two (2), and three (3) years respectively. On the expiration of the respective terms, the successors to each shall be appointed for a term of three (3) years. ***Upon the establishment of a consolidated local government, incumbent members shall continue to serve until the expiration of their current term of office.*** In the event of a vacancy in the term of an appointed or elected trustee, the county judge/executive shall appoint with the approval of the fiscal court a trustee for the remainder of the term***, except in a county containing a consolidated local government. In a county containing a consolidated local government, the mayor pursuant to the provisions of Section 1 of this Act shall appoint a trustee for the remainder of the term***.

(b) An appointed trustee may be removed from office as provided by KRS 65.007.

(c) No person shall be an elected trustee who, at the time of his ***or her*** election, is not a citizen of Kentucky and has not attained the age of twenty-one (21).

(d) Unless otherwise provided by law, an elected firefighter trustee may be removed from office ***by the mayor of a consolidated local government, or in a county not containing a consolidated local government,*** by the county judge/executive of the county in which the greater part of the district is located***. An elected firefighter trustee may be removed*** after a hearing with notice as required by KRS Chapter 424, for inefficiency, neglect of duty, malfeasance or conflict of interest. The hearing shall be initiated and chaired by the county judge/executive ***of a county or the mayor of a consolidated local government***, who shall prepare a written statement setting forth the reasons for removal. The trustee to be removed shall be notified of his ***or her*** proposed removal and the reasons for the proposed removal by registered mail sent to his ***or her*** last known address at least ten (10) days prior to the hearing. The person proposed to be removed may employ counsel to represent him ***or her***. A record of the hearing shall be made by the county judge/executive ***or mayor respectively***.

(e) The removal of an elected firefighter trustee of a fire protection district shall be subject to the approval of the fiscal court of the county in which the greater part of the district is located ***in those counties not containing a consolidated local government or the legislative council in a county containing a consolidated local government***.

(f) An elected firefighter trustee removed pursuant to paragraphs (c) and (d) of this subsection may appeal, within ten (10) days of the rendering of the decision of the fiscal court ***or legislative council, respectively***, to the Circuit Court of the county in which the greater part of the district is located. The scope of the appeal shall be limited to whether the county judge/executive***, mayor, legislative council,*** or the fiscal court ***respectively,*** abused their discretion in removing the trustee.

(2) The elective offices of members of the board of trustees shall be filled by an election to be held once each year on the fourth Saturday of June between the hours of 11:00 a.m. and 2:00 p.m. The polls shall be located at the principal fire house in the district. The date, time, and place of the election shall be advertised in accordance with KRS 424.120. This notice

shall be advertised at least thirty (30) days prior to the election date and shall include the names and addresses of the candidates to be voted on for each position of trustee. In lieu of the published notice for the election of the firefighter trustees, written notice containing the information required to be advertised may be sent by first-class mail to each member of the firefighters of the fire protection district or volunteer fire department district, addressed to the firefighter at his ***or her*** residence, at least thirty (30) days prior to the election date. The nominations for candidates for trustees both representing the firefighters and the property owners residing in the district shall be made in accordance with the bylaws of the department. The terms of the three (3) trustees appointed by the county judge/executive ***or mayor*** shall start at the same time as the terms of the elected trustees. On or before the beginning of the second fiscal or calendar year, depending on which basis the fire protection or volunteer fire department district is being operated, after June 16, 1966, all departments organized prior to June 16, 1966, shall increase their boards of trustees from three (3) to seven (7) members and elect the elective members in the manner set forth herein.

(3) The trustees shall elect from their number a chairman, a secretary and a treasurer, the latter of whom shall give bond in an amount as shall be determined by the county judge/executive of the county in which the greater part of the fire protection district is located ***or the mayor in a consolidated local government***, conditioned upon the faithful discharge of the duties of his ***or her*** office, and the faithful accounting for all funds which may come into his or her possession as treasurer. The premiums on the bonds shall be paid out of the funds of the district.

Section 77. KRS 76.030 is amended to read as follows:

(1) ***Except in counties containing a consolidated local government,*** the business, activities, and affairs of such district shall be managed, controlled and conducted by a board composed of seven (7) members, four (4) of whom shall be appointed by the mayor of such city subject to the approval of the city legislative body, and three (3) of whom shall be appointed by the county judge/executive of such county subject to the approval of the fiscal court, and which seven (7) members thus appointed shall constitute the board of such district. Not more than four (4) members of a seven (7) member board nor more than five (5) members of an eight (8) member board shall be affiliated with the same political party. After March 19, 1977, members shall be so selected and appointed so that no more than one (1) member resides in any one (1) state senatorial district. In a county containing a city of the first class, the county judge/executive, with approval of the fiscal court, shall appoint one (1) additional member to the board of such district who may be a resident of any state senatorial district in the county.

(2) Each such member shall be at least twenty-five (25) years of age; each appointed by the mayor shall be a resident of such city and wherein he shall have actually resided continuously for at least three (3) years next prior to appointment; each appointed by the county judge/executive shall be a resident of such county and wherein he shall have actually resided continuously for at least three (3) years next prior to appointment. No officer or employee of such city or county, whether holding a paid or unpaid position, shall be eligible for appointment as a member of such board.

(3) The term of each of such members shall be four (4) years, ending on July first. A member is eligible to succeed himself and shall continue in office until his successor has been appointed and qualified. Vacancies in the membership shall be filled for the unexpired portion of the term by the mayor or the county judge/executive as the case may be, subject to the same approval.

(4) Any member of the board appointed by the mayor may be removed by the mayor, for cause, after hearing by the mayor, and after at least ten (10) days' notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the mayor shall be final and removal results in vacancy in such office. Any member of the board appointed by the county judge/executive may be removed by the county judge/executive, for cause, after hearing by the county judge/executive, and after at least ten (10) days' notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the county judge/executive shall be final and removal results in vacancy in such office.

(5) The members of the board shall be paid seventy-five dollars ($75) for each meeting of the board attended by such member, and fifty dollars ($50) for attendance at any meeting of a committee which has been authorized or duly appointed by the board. But in no instance shall any member of said board be paid for more than one (1) meeting per day, nor more than eighteen hundred dollars ($1800) during any fiscal year of the board, nor for more than twenty-four (24) board meetings and twenty-eight (28) committee meetings held during any fiscal year of said board.

(6) Notwithstanding subsection (3) of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the terms of the members of the board shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, the mayor shall adjust the terms of the sitting members appointed by the mayor so that the terms of two (2) members expire in one (1) year, the term of one (1) member expires in two (2) years, and the term of one (1) member expires in three (3) years; the county judge/executive with the approval of the fiscal court shall adjust the terms of the sitting members appointed by the county judge/executive so that the term of one (1) member expires in one (1) year, the term of one (1) member expires in two (2) years and the term of one (1) member expires in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years.

(7) Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing that city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, all members of the

board shall be appointed by the mayor of the consolidated local government pursuant to the provisions of Section 1 of this Act for a term of three (3) years. Incumbent members upon the establishment of the consolidated local government shall continue to serve as members of the board for the time remaining on their current term of appointment.

Section 78. KRS 76.060 is amended to read as follows:

(1) The board shall, in July of each year, elect from its members a chairman and a vice chairman, who shall be of different political party affiliation. It shall employ a secretary-treasurer and a chief engineer, neither of whom is a member of the board. The secretary-treasurer and the chief engineer may be removed by the board for cause, after hearing by it and after at least ten (10) days' notice in writing has been given to the secretary-treasurer or chief engineer, as the case may be, which notice shall embrace the charges preferred against him ***or her***. At the hearing he ***or she*** may be represented by counsel. The finding of the board is final. The secretary-treasurer and the chief engineer shall each devote his ***or her*** entire time and attention exclusively to the services of the board. The board may employ, and remove at pleasure, professional and technical advisers, experts, and other employees, skilled or unskilled, as it deems requisite for the performance of its duties.

(2) The board shall require the secretary-treasurer and the chief engineer each to execute a bond and may exact from such of its other officers and employees bonds as it deems expedient. All bonds shall be payable to the district in the sums as the board may fix, with approved corporate surety, and premiums therefor shall be paid by the district. The bonds shall obligate the makers thereof to faithfully perform the duties of their respective offices and positions and to fully account for and pay over all money, property, or other thing of value of the district, which may come to their hands, respectively. The board shall fix the salaries and compensation of the officers and employees it engages, which salaries and compensation, however, shall be in line with that paid by the city and county for similar services.

(3) Notwithstanding other provisions of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the executive director, secretary-treasurer and chief engineer shall be appointed by and serve at the joint pleasure of the mayor, and the county judge/executive with the approval of the fiscal court pursuant to KRS 67.040. ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing such city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the executive director, secretary-treasurer, and chief engineer shall be appointed by and serve at the pleasure of the mayor.***

Section 79. KRS 77.065 is amended to read as follows:

(1) The members of the fiscal court of a county shall be, and they are hereby designated as, and empowered to act as, ex officio the air pollution control board of the air pollution control district in such county.

(2) All county officers, their assistants, clerks, deputies and employees, and all other county employees shall be ex-officio officers, assistants, deputies, clerks and employees respectively of the air pollution control district in the county in which they are employed. Except as otherwise provided in this chapter, they shall perform respectively the same various duties for the air pollution control district as for the county without additional compensation, in order to carry out the provisions of this chapter.

(3) The provisions of ***subsections (1) and (2) of*** this section shall not be applicable to any county containing a city of the first or second class ***or a consolidated local government***.

(4) Notwithstanding any provision of this chapter to the contrary, whenever a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the county shall provide all staff support, including a secretary-treasurer and an air pollution control officer, to the air pollution control board through county officers, assistants, clerks, deputies and employees. In such case, the staff of the air pollution control board, including the secretary-treasurer and the air pollution control officer, shall be deemed county employees and shall be subject to the control of fiscal court. At the time the compact takes effect, the employees of the air pollution control district shall be transferred to the service of the county government; provided that all such employees who are in the classified service at such time shall be continued in the classified service administered by county government. ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing that city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the employees of an air pollution control district shall be deemed to be employees of the consolidated local government and the provisions of this subsection shall be applied to the consolidated local government.***

Section 80. KRS 77.070 is amended to read as follows:

(1) In a county containing a city of the first or second class, the air pollution control board of the air pollution control district shall consist of seven (7) members, three (3) of whom shall be appointed by the county judge/executive, subject to the approval of the fiscal court, and four (4) of whom shall be appointed by the mayor of the city of the first or second class within such county. The mayoral appointments shall be subject to the approval of the legislative body of the city.

(2) The mayor shall appoint, subject to the approval of the legislative body of the city, one (1) member for a term of one (1) year, one (1) member for a term of two (2) years, one (1) member for a term of three (3) years, and one (1) member for a term of four (4) years, and the county judge/executive, subject to the approval of the fiscal court, shall appoint one (1) member for a term of two (2) years, one (1) member for a term of three (3) years, and one (1) member for a term of four (4) years, and upon the expiration of each of said terms respectively, and thereafter, the term of each of such members shall be

four (4) years, and until their successors are appointed and qualified.

(3) All air pollution control board members appointed pursuant to this section must be freeholders within the district; those appointed by the county judge/executive must be residents of such county, and those appointed by ***a***[~~the~~] mayor must be residents of ***their respective***[~~such~~] city ***or consolidated local government***.

(4) Not more than four (4) of the seven (7) board members appointed pursuant to this section shall be of the same political party affiliation, nor shall an officer or employee of such city***, consolidated local government,*** or county, whether holding a paid or unpaid position, be eligible for appointment to the board.

(5) A member of the air pollution control board is eligible to succeed himself ***or herself***. A vacancy in the membership shall be filled by an appointee of the mayor or of the county judge/executive as the case may be, for the unexpired portion of the term. An appointee to a vacancy shall have the same qualifications as any regularly appointed member.

(6) Any member of the board appointed by a mayor may be removed, for cause, after a hearing, by the legislative body of such city ***or consolidated local government***, and after ten (10) days notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the legislative body shall be final and removal results in vacancy in such office.

(7) Any member of the board appointed by a county judge/executive may be removed, for cause, after a hearing, by the fiscal court of such county, and after ten (10) days notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the fiscal court shall be final and removal results in vacancy in such office.

(8) As used in this section "mayor" means the chief executive of the city ***or consolidated local government*** whether the official designation of his office is mayor, city manager, or otherwise.

(9) Notwithstanding subsections (1) and (2) of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the air pollution control board shall consist of seven (7) members, four (4) of whom shall be appointed by the county judge/executive with the approval of the fiscal court and three (3) of whom shall be appointed by the mayor, with the approval of the legislative body, of the first-class city within such county. The terms of such members shall be three (3) years, and until their successors are appointed and qualified. Upon the effective date of the compact, the mayor, and county judge/executive with the approval of the fiscal court, shall adjust the terms of the sitting members so that the term of one (1) of each of their appointments expires in one (1) year, the term of one (1) of each of their appointments expires in two (2) years and the term of one (1) of each of their appointments expires in three (3) years. The term of the then remaining member who was previously appointed by the mayor shall terminate immediately and the county judge/executive with approval of the fiscal court shall appoint a member for a one (1) year term. Upon the expiration of these staggered terms, successors shall be appointed for a term of three (3) years. ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing that city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, all members of the board shall be appointed by the mayor of the consolidated local government pursuant to the provisions of Section 1 of this Act for a term of three (3) years. Incumbent members upon the establishment of the consolidated local government shall continue to serve as members of the board for the time remaining of their current term of appointment.***

Section 81. KRS 77.115 is amended to read as follows:

(1) The air pollution control board is hereby declared to be the governing body of an air pollution control district, and shall manage and control all the affairs and property of such district, and shall exercise all the powers of such district not otherwise delegated by this chapter. In a county where a city-county compact under KRS 79.310 to 79.330 is in effect ***or in a county where a consolidated local government has been established***, the air pollution control board shall assume all of the duties and responsibilities of the hearing board appointed under KRS 77.105, and the hearing board shall be abolished.

(2) Notwithstanding any provision of this chapter to the contrary, in a county where a city-county compact under KRS 79.310 to 79.330 is in effect ***or in a county where a consolidated local government has been established***, the air pollution control board shall have regulatory authority for the district, and the city***, consolidated local government,*** or county, as appropriate, shall exercise funding and administrative control of the district.

(3) If an air pollution control board finds the need for and requires the implementation of a vehicle exhaust testing program, the program shall prohibit emissions of, regulate, or control only mobile sources of air pollutants regulated under the state program established in accordance with KRS 224.20-710 to 224.20-765.

(4) In a county where the air pollution control board makes a finding of a need for and requires the implementation of a vehicle exhaust testing program, the board shall exempt from the program vehicles registered to military personnel on active duty whose duty station is outside of the county.

Section 82. KRS 77.127 is amended to read as follows:

(1) In a county containing a ***consolidated local government or a*** city of the first or second class, there is established within the air pollution control district a special trust fund to be known as the "air quality trust fund" to be used for conducting and funding air quality research and development projects, special nonrecurring air quality projects, and air quality education programs approved by the air pollution control board to assist in implementing the policies and purposes of this chapter.

(2) All money collected for the fund shall be deposited by the district into an interest-bearing capital project account maintained by the fiscal court ***or consolidated local government*** of the county in which the district is located. Money shall be distributed from the account by the finance director of the county ***or consolidated local government*** based upon written authorization from the air pollution control board. Money unexpended at the close of a fiscal year shall not lapse but shall be carried forward for future use.

(3) The fund shall not be used to support or finance the routine day-to-day activities and responsibilities of the district.

(4) The air pollution control board shall, by regulation, set policies and establish procedures for the receipt and disbursement of any money collected under this section and for the full disclosure of the source and use of the money.

(5) The air pollution control board shall control and manage the fund. It shall publish in writing at its June meeting each year an accounting of the income and disbursements of the fund.

(6) Four (4) members of the air pollution control board shall constitute a quorum for conducting business relating to the air quality trust fund. When votes are taken on matters relating to the fund, each member shall have one (1) vote, and the affirmative vote of at least a majority of the votes cast shall be necessary for the adoption of any motion, measure, or resolution.

(7) Members of the air pollution control board shall not solicit, but may accept, money by grant, gift, donation, bequest, civil or criminal penalty, or other conveyance to be credited to the air quality trust fund, but they may not accept penalties collected under KRS 77.990 for the air quality trust fund.

Section 83. KRS 77.135 is amended to read as follows:

(1) It shall be the duty of the secretary-treasurer of an air pollution control board of a ***consolidated local government and a*** county containing a city of the first or second class, during or before the month of May of each year to prepare and certify to the ***consolidated local government or*** fiscal court of the county and to the legislative body of the city, for their joint consideration, a preliminary budget showing the total funds which, in the judgment of the air pollution control board, will be needed for the various departments of the district, together with a statement showing the estimated balances, if any, which will be available on July 1 for expenditure during the next fiscal year following the certification of said statement, and also indicating, as nearly as may be possible, what additional funds or assets (other than appropriations) will be or will become available for expenditure during ***that***[~~said~~] year. The board shall also furnish to ***the consolidated local government or the***[~~said~~] fiscal court and ***the city***[~~said~~] legislative body any other information or data available to it which ***the consolidated local government, the***[~~said~~] fiscal court***,*** or ***the city***[~~said~~] legislative body may request.

(2) Prior to the first day of each fiscal year, every air pollution control board shall prepare, for its own use and guidance, a financial budget setting forth the total amounts of funds available from all sources for expenditures during the said fiscal year, and also setting forth in detail the estimated expenditures of the board and the district during said fiscal year.

(3) A contingent fund for unanticipated expenditures may be established in order to provide for such contingent and unanticipated needs as may arise during the district's said fiscal year.

Section 84. KRS 77.140 is amended to read as follows:

The air pollution control board of a ***consolidated local government or a*** county containing a city of the first or second class shall install and maintain a modern and efficient system of accounting and keep financial records. The board, however, may select and use the finance department of ***the consolidated local government or***[~~such~~] city to do its financial accounting and make its disbursements in ***a***[~~such~~] manner as may be agreed upon by and between the board and the director of finance of ***the consolidated local government or***[~~said~~] city, which work shall be done by ***the***[~~said~~] finance department without compensation from the board. The Auditor of Public Accounts of the Commonwealth of Kentucky, the comptroller and inspector of ***the consolidated local government or the***[~~such~~] city, and the county auditor of such county, respectively, shall have access to the books and records of the board, and upon the direction of the legislative body of ***the consolidated local government or the***[~~such~~] city the[~~ said~~] comptroller and inspector, or upon the direction of the fiscal court of ***the***[~~such~~] county, the county auditor, shall make an audit of the board's accounts and report back thereon.

Section 85. KRS 77.275 is amended to read as follows:

If any local ordinance has provided regulations similar to those in KRS 77.150 to 77.175 or to any order, regulation, or rule prescribed by the air pollution control board, and has provided for the granting of variances, and pursuant to ***the***[~~such~~] local ordinance a variance has been granted prior to the adoption of a resolution by the fiscal court and the passage of an ordinance by the legislative body of a city of the first or second class, pursuant to KRS 77.010 to 77.060, ***or the passage of an ordinance by the consolidated local government, the***[~~such~~] variance shall be continued as a variance of the hearing board for the time specified therein or one (1) year, whichever is shorter, or until and unless prior to the expiration of such time the hearing board modifies or revokes such variance as provided in KRS 77.245 to 77.275.

Section 86. KRS 80.450 is amended to read as follows:

(1) The members shall constitute the housing authority. A majority of the members shall constitute a quorum for the purpose of conducting business and exercising powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of the members present, unless in any case the bylaws of the authority require a larger number. An authority shall select from among its members a chairman and a vice chairman, and it may employ a secretary (who shall be executive director), technical experts and such other officers, agents and other employees, permanent and temporary, as it

may require, and shall determine their qualifications, duties and compensation. For such legal services as it may require, an authority may call upon the chief law officer of the city or a county for which it is created, or may employ its own counsel and legal staff. An authority may delegate to one (1) or more of its agents or employees such powers or duties as it deems proper.

(2) Notwithstanding subsection (1) of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the secretary, who shall be the executive director, shall be appointed by and serve at the pleasure of the county judge/executive with the approval of the fiscal court pursuant to KRS 67.040. ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing such city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the secretary, who shall be the executive director, shall be appointed by and shall serve at the pleasure of the mayor.***

Section 87. KRS 80.480 is amended to read as follows:

(1) For inefficiency or neglect of duty or misconduct in office, a member may be removed by the authority appointing him, but a member shall be removed only after he ***or she*** has been given a copy of the charges against him ***or her*** at least ten (10) days prior to the hearing[~~ thereon~~] and has had an opportunity to be heard in person or by counsel. In the event of the removal of any member, a record of the proceedings, together with the charges and findings[~~ thereon~~], shall be filed as required for the certificate of appointment of ***the***[~~such~~] member.

(2) Notwithstanding subsection (1) of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the terms of the members of the authority shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, the county judge/executive with the approval of the fiscal court shall adjust the terms of the sitting members so that two (2) shall expire in one (1) year, two (2) shall expire in two (2) years and one (1) shall expire in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years. ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing such city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, all members of the authority shall be appointed by the mayor of the consolidated local government pursuant to the provisions of Section 1 of this Act for a term of three (3) years. Incumbent members upon the establishment of the consolidated local government shall continue to serve as members of the authority for the time remaining of their current term of appointment.***

Section 88. KRS 81.028 is amended to read as follows:

(1) Any city located in a county containing a ***consolidated local government or a*** city of the first class which is reclassified as a city of the second class after March 16, 2000, shall be exempt from the provisions of KRS 90.300 to 90.400, KRS 95.430 to 95.500, and KRS 95.851 to 95.991 relating to the organization and structure of civil service systems, police departments, fire departments, and pension systems in cities of the second class.

(2) In lieu of the requirements of these statutes, any city reclassified as a city of the second class shall ensure that police and fire protection services are provided for the citizens of the city in the same manner and at least at the same level of service as was being provided prior to the reclassification.

(3) Nothing in this section shall prevent a city from restructuring or creating a new civil service system, police department, or fire department after a reclassification to a city of the second class. Any city that restructures or creates a new civil service system, police department, or fire department may adopt any of the provisions of KRS 90.300 to 90.400, KRS 95.430 to 95.500, and KRS 95.851 to 95.991 relating to the organization and structure of civil service systems, police departments, fire departments, and pension systems in cities of the second class.

(4) If fire protection service is being provided by a fire protection district in any city that is reclassified as a city of the second class, the reclassification shall in no way affect the operations of the fire protection district and the services it provides. If at any time after a city is reclassified as a city of the second class, the fire protection district ceases to exist or fails to adequately provide for the fire protection needs of the city, the city shall have the right to create its own fire department or secure some other means for the provision of adequate fire protection services.

Section 89. KRS 81.380 is amended to read as follows:

(1) Any city, located in a county containing a city of the first class ***or a consolidated local government***, which is located within an area which is adversely affected by a public project that ***was***[~~has been~~] initiated by a city of the first class, or by action of a joint agency of a city of the first class and ***its***[~~the~~] county, after June 30, 1998, or upon the expiration of the initial twelve (12) year term provided in KRS 79.310(2) of a cooperative compact which is in effect in the county pursuant to KRS 79.310 to 79.330, may by ordinance relocate the corporate boundaries of the city to an unincorporated area of the county. The ordinance shall set out by metes and bounds that unincorporated area of the county where the city will be relocated. The area designated for relocation shall not exceed the acreage within the then existing boundaries of the relocating city.

(2) All financial assets and legal obligations of the city shall not be altered or interrupted by a relocation.

(3) A city of the first class ***or a consolidated local government*** shall relinquish all priority rights or any rights pursuant to the terms of a cooperative compact for annexation to that unincorporated area which is designated for the relocation of a city as provided for in subsection (1) of this section. Any priority rights or any rights pursuant to the terms of a cooperative

compact for annexation which are relinquished for the relocation of a city shall then be attached in the name of the city of the first class ***or the consolidated local government*** to that area which has been abandoned by the relocating city pursuant to subsection (5) of this section. The relocating city shall forward a copy of the ordinance adopted pursuant to subsection (1) of this section to the mayor of the ***consolidated local government or the mayor of the*** city of the first class and the county judge/executive of the county.

(4) The right of a city to relocate is in no way meant to amend any provision of the statutes which govern the formation and operation of a cooperative compact created pursuant to KRS 79.310 to 79.330.

(5) Upon the relocation of a city, the city clerk shall forward to the Secretary of State within one (1) year from the date of the relocation, a document listing the name of the city, the date of the relocation, the present classification of the city, and a certified copy of the ordinance adopted pursuant to subsection (1) of this section. If a city fails to comply with this subsection, it shall be barred from receiving state moneys until the city complies.

(6) Until ninety percent (90%) of the residential properties located within the relocating city's boundaries are acquired for the public project, the boundaries of the city shall include both the old city site and the area designated for the location of the new site of the city.

(7) After ninety percent (90%) of the residential properties have been acquired as set forth in subsection (6) of this section, the boundaries of the city shall no longer include the area where the city existed before relocation.

(8) A city that has been relocated according to the provisions of this section may change the name of the city by the adoption of an ordinance by the city legislative body. Any person objecting to renaming the relocated city under this section may present a petition objecting to the renaming of the city by submitting the petition to the county clerk of the county in which the city is located. The petition shall be in the following form: "The registered voters living within (provide the name of the existing relocated city) hereby object to the question of the renaming of the city." If the petition is signed and dated by at least twenty-five percent (25%) of the registered voters residing in the relocated city, an election shall be held on the question of renaming the city. The county clerk shall examine the petition and verify the validity of the signatures. If a petition containing at least twenty-five percent (25%) of the registered voters residing in the relocated city is submitted to the county clerk, and certified by the county clerk as sufficient, by the second Tuesday in August, the question of renaming the relocated city shall be placed on the ballot for the next general election. The ballot shall contain at least two (2) but no more than four (4) names as potential new names for the relocated city.

(9) Upon the act of renaming a city, the city clerk shall forward to the Secretary of State, within one (1) year from the date of the renaming, a document listing the new name of the city, the date of the renaming, the present classification of the city, and a certified copy of the ordinance adopted in accordance with KRS 83A.060. If a city fails to comply with the provisions of this subsection, it shall be barred from receiving state moneys until the city complies.

Section 90. KRS 81.050 is amended to read as follows:

(1) ***Except as provided in KRS 67C.111(2),*** proceedings to incorporate a city shall be commenced by a petition being filed with the circuit clerk of the county in which the area to be incorporated is located. The petition shall contain:

- (a) The signatures and addresses of:
  - 1. A number of registered voters equal to two-thirds (2/3) of the voters of the proposed territory, or
  - 2. A number of real property owners, the sum total of whose assessed value of real property is equal to at least two-thirds (2/3) of the assessed value of the real property in the proposed territory;
- (b) A statement of the boundaries proposed and the number of residents;
- (c) An accurate map of the proposed territory;
- (d) A detailed statement of the reasons for incorporation including the services sought from the proposed city;
- (e) A description of the existing facilities and services within the proposed territory; and
- (f) A statement of the form of government under which the city will operate if incorporated.

(2) The petition shall be docketed for hearing not less than twenty (20) days from the date of filing the petition. Notice of the filing of the petition and of its object shall be given by publication pursuant to KRS Chapter 424.

Section 91. KRS 81A.410 is amended to read as follows:

(1) ***Except as provided in KRS 67C.111(3),*** a city legislative body may extend the city's boundaries to include any area:

- (a) Which is adjacent or contiguous to the city's boundaries at the time the annexation proceeding is begun; and
- (b) Which by reason of population density, commercial, industrial, institutional or governmental use of land, or subdivision of land, is urban in character or suitable for development for urban purposes without unreasonable delay.

(2) No part of the area to be annexed shall be included within the boundary of another incorporated city.

(3) If a city is considering the annexation of two (2) or more areas which are all adjacent to the city boundary but are not adjacent to one another, it may undertake simultaneous proceedings under the authority of KRS 81A.420 for the annexation of such areas.

Section 92. KRS 82.025 is amended to read as follows:

(1) There shall be created a Kentucky Urban Affairs Council that shall consist of the mayors of all ***consolidated local governments,*** cities of the first and second classes***,*** and urban-county governments***,*** and the designated chief executives of charter county governments that prior to the merger of city and county governments contained a city of the second class. The ***council members annually shall select from among themselves a chairman***[~~mayor of Louisville shall serve as the first chairman and subsequent chairmen shall be elected annually by the council members~~]. The council shall study all matters pertaining to urban problems, including but not limited to human resources, environmental conditions, property values, law and order, and race relations. The council shall meet at least four (4) times per year to formulate a plan to improve urban conditions for presentation to the Governor annually and the General Assembly.

(2) The council shall be attached to the Department for Local Government for administrative purposes. The department shall be the administrative agent for the council providing staff and other services, as needed, by the council. The department shall provide adequate funding for staff services and the reasonable and necessary expenses of the council and its members for the effective performance of the council's work.

Section 93. KRS 82.085 is amended to read as follows:

(1) The legislative body of each ***consolidated local government, and of any*** city of the first, second, third, fourth, fifth, and sixth class***,*** may provide by ordinance, for reasonable differences in the rate of ad valorem taxation within different areas of the same taxing district on that class of property which includes the surface of the land. Those differences shall relate directly to differences between nonrevenue-producing governmental services and benefits giving the land urban character which are available in one or several areas of a taxing district in contrast to other areas of the same taxing district in which those services and benefits are not available.

(2) These nonrevenue-producing governmental services and benefits shall include, but not be limited to, police protection, fire protection, streets, street lighting, sidewalks, water service, and sewer facilities.

(3) This section shall be effective notwithstanding any other statute relating to the uniformity of ad valorem tax assessment.

Section 94. KRS 82.095 is amended to read as follows:

(1) Any city of the fourth class located in a county containing a city of the first class ***or consolidated local government***, or any city of the third class, located in a county containing a city of the first class ***or consolidated local government***, which provides police, fire or garbage collection services for the residents of the city may levy a supplemental tax which shall be in addition to ad valorem property taxes.

(2) Such supplemental tax shall be in an amount not to exceed the reasonable cost of police, fire and garbage collection services actually provided by the city. The rate of such tax shall be established by an ordinance which shall have readings at no less than two (2) different meetings of the city legislative body before passage.

(3) The rate of such supplemental tax may be apportioned in a reasonable manner, other than an ad valorem approach, so that the recipient of police, fire or garbage collection services pays an amount based on the cost of services actually received.

(4) Any ordinance levying a supplemental tax pursuant to subsection (2) of this section may be recalled as provided in subsections (2) and (3) of KRS 160.485, provided that the petition for recall shall be effective upon the signature of a number of registered and qualified voters as described therein equal to five percent (5%) instead of the percentage provided therein.

Section 95. KRS 82.400 is amended to read as follows:

(1) If any person desires to offer for dedication by recorded plat any public way or easement within the ***jurisdictional***[~~city~~] limits ***of the city or a consolidated local government***, he ***or she*** shall file with the[~~ city~~] legislative body ***of the city or a consolidated local government,*** a map or plat of the territory bounded, intersected, or immediately adjacent to the proposed public way or easement, showing the proposed name, nature, and dimensions of the public way or easement offered for dedication. If the[~~ city~~] legislative body ***of the city or a consolidated local government*** decides the proposed dedication would be beneficial to the public interest and suitable for the immediate or future acceptance of the city ***or consolidated local government***, it shall approve the map or plat, and the mayor shall subscribe a certificate of approval on the map and acknowledge the execution thereof before any public officer authorized to take acknowledgments of deeds. The map or plat may then be recorded in the office of the county clerk.

(2) Except as provided for by ordinance in a ***consolidated local government, in a*** city of the first class or in a county containing a city of the first class, subdivision regulations which have been adopted as provided in KRS Chapter 100, and where streets or public ways as dedicated on the final subdivision plat have been constructed, inspected, and approved in accordance with the subdivision regulations, then the procedure for filing the map or plat with the[~~ city~~] legislative body ***of the consolidated local government, city, or county, as the case may be,*** as required in subsection (1) of this section shall be waived, and the dedicated street or public way shall automatically be deemed beneficial to the public interest and shall be, by operation of law, automatically accepted for maintenance by the ***consolidated local government,*** city***, or county, respectively,*** forty-five (45) days after inspection and final approval, and shall be a public way for all purposes, KRS Chapter 83A, regarding a city's***, county's, or consolidated local government's*** adoption of ordinances notwithstanding.

(3) When any property has been opened to the unrestricted use of the general public for five (5) consecutive years, it shall be conclusively presumed to have been dedicated to the city ***or consolidated local government*** as a public way or easement,

subject to acceptance by the city ***or consolidated local government***. The city ***or consolidated local government*** may, at any time after the expiration of five (5) years from the time the property is opened to the public, pass an ordinance declaring it so dedicated, and accepting the dedication, whereupon it shall be a public way or easement of the city ***or consolidated local government*** for all purposes. The lack of an actual dedication to the city ***or consolidated local government***, or of a record title on the part of the city ***or consolidated local government***, shall be no defense against the collection of any tax that may be levied against property abutting thereon for the payment of the cost of any improvement constructed thereon by order of the city ***or consolidated local government***. Nothing herein shall be construed to require the expiration of five (5) years to raise a presumption of dedication in any case where, under any rule of law in force in this state, a dedication would be presumed in less than five (5) years. Provided, however, that property of a railroad company shall not be presumed to be dedicated as a public way or easement under this section or any other rule of law in force in this state unless the company consents to said dedication in writing.

(4) Any person who shall lodge for record in the county clerk's office, and any county clerk or deputy who shall receive for record or permit to be lodged for record, any plat, map, deed, or other instrument contrary to the provisions of this section, shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for each offense.

Section 96. KRS 82.650 is amended to read as follows:

As used in KRS 82.660 and 82.670, unless the context otherwise requires:

(1) "Major structural change" means structural alterations and structural repairs made within any twelve (12) month period costing in excess of fifty percent (50%) of the physical value of the structure, as determined by comparison of the extent/value of the alterations involved and the replacement value of the structure at the time the plans for the alteration are approved, using the Building Officials Conference of America (BOCA) chart for construction cost; and

(2) "Ordinary repairs" means nonstructural reconstruction or renewal of any part of an existing building for the purpose of its maintenance or decoration, and shall include, but not be limited to, the replacement or installation of nonstructural components of the building, such as roofing, siding, windows, storm windows, insulation, drywall or lath and plaster, or any other replacement that does not alter the structural integrity, alter the occupancy or use of the building, or affect by rearrangement, exitways and means of egress.

(3) "City" means a city of any class or a consolidated local government but does not mean an urban-county government.

Section 97. KRS 82.700 is amended to read as follows:

As used in KRS 82.700 to 82.725:

(1) "Local government" means ***a consolidated local government, or*** a city of the first or second class;

(2) "Hearing board" means a body established by ordinance and empowered to conduct hearings pursuant to KRS 82.710 and composed of one (1) or more persons appointed by the mayor of the local government. "Hearing board" also means any hearing officers appointed by the board. Any action of a hearing officer shall be deemed to be the action of the board; and

(3) "Nuisance code" means an ordinance or ordinances enacted by a local government pursuant to KRS 381.770 and KRS 82.705.

Section 98. KRS 91.375 is amended to read as follows:

All omitted property that should have been assessed for ad valorem taxes by cities of the first class ***or consolidated local governments*** is subject to a penalty of ten percent (10%) of the amount of the taxes, and interest at one percent (1%) per month from the date when the taxes would have been delinquent had the property been listed as required by law.

Section 99. KRS 91.560 is amended to read as follows:

(1) The fee simple of all lands, in a city of the first class ***or in a consolidated local government***, and the full term and renewal of every leasehold carrying with it the value of the improvements thereon, shall be subject, from and after the assessment date each year, to a lien for the city taxes to be assessed thereon for the succeeding year. The lien shall be superior to homestead right and to all encumbrances, whether made before or after that date, except state taxes, and shall take precedence of dower, curtesy, remainders, reversions and other future estates.

(2) From the beginning of any action to collect taxes against real property, a lien for each tax bill assessed against the same owner or set of joint owners shall also arise upon every tract of land or improvement still owned by him or them, with a view to the sale of less than all the tracts for the entire tax bill, subject to such marshaling of burdens as against third parties as the rules of equity require. The court may allow a purchaser or encumbrancer to release any tract from the tax lien thereon, by paying its share of the tax, interest and costs.

(3) The tax lien on real property provided for by this section shall attach though, through error in the proceedings, the tax bill is unenforceable, in which case the lien reaching back to the date named shall support the claim of the city ***or consolidated local government*** for any taxes imposed afterward for the year in question under any curative act of the General Assembly.

(4) The city ***or a consolidated local government*** shall have a lien on personal property as provided in the case of real property for its taxes.

Section 100. KRS 91.610 is amended to read as follows:

The city ***or a consolidated local government*** shall deduct, from the amount of its obligation to any person, the amount of the taxes, interest and penalties that such person owes or is liable for to the city ***or consolidated local government***, and shall surrender to that person the canceled tax bills therefor, which shall be a discharge of the obligation of the city ***or consolidated local government*** to that person to the amount so deducted.

Section 101. KRS 91.620 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, the shares of stock of every incorporated bank, trust company, and guaranty or security company located in a city of the first class ***or consolidated local government*** shall be assessed for[~~city~~] taxes by the city ***or consolidated local government*** assessor, to the extent and in the proportion its business is done in the city ***or consolidated local government***.

(2) No assessment for city ***or consolidated local government*** taxes shall be made upon the shares of stock of any incorporated bank, trust company, or guaranty or security company that pays an ad valorem tax on its real estate and a license tax in lieu of an ad valorem tax on its personal estate.

Section 102. KRS 91A.350 is amended to read as follows:

(1) The local governing bodies of counties containing cities of the first class and the local governing bodies of the cities of the first class located therein may, by joint or separate action, establish tourist and convention commissions for the purpose of promoting convention and tourist activity. ***The local governing body of a consolidated local government may establish or maintain tourist and convention commissions for the purpose of promoting convention and tourist activity.***

(2) ***Except in a county containing a consolidated local government,*** the local governing bodies of counties containing cities of the second through sixth classes and the local governing bodies of the cities of the second through sixth classes located therein may, by joint or separate action, establish tourist and convention commissions for the purpose of promoting and developing convention and tourist activities and facilities.

(3) The local governing bodies of two (2) or more counties may jointly establish tourist and convention commissions for the purpose of promoting convention and tourist activities and facilities.

(4) The local governing bodies of two (2) or more counties, which may include a consolidated local government, may jointly establish tourist and convention commissions for the purpose of promoting convention and tourist activities and facilities.

(5)[~~(4)~~] Tourist and convention commissions may continue to fund recreational activities or projects not related to tourism or conventions that were funded by the commission prior to July 13, 1990, at a level no greater than that provided by the commission in the 1990 fiscal year.

(6)[~~(5)~~] For the purpose of promoting recreational, convention, and tourist activity in cities and counties served by joint playground and recreation boards established under KRS 97.035; to provide the boards with the same authority to issue revenue bonds granted to cities by KRS 58.010 to 58.150 and KRS 103.200 to 103.285; and to authorize the boards to build and issue bonds for facilities located on leasehold and permithold land.

Section 103. KRS 91A.370 is amended to read as follows:

(1) ***Except in a county containing a consolidated local government,*** the commission established pursuant to subsection (1) of KRS 91A.350 shall be composed of nine (9) members to be appointed by the mayor of the largest city in the county, the county judge/executive and the Governor of the Commonwealth.

(2) ***Except in a county containing a consolidated local government,*** the mayor of the largest city in the county shall appoint three (3) commissioners in the following manner:

(a) One (1) commissioner from a list submitted by the local city hotel and motel association.

(b) One (1) commissioner from a list submitted by the chamber of commerce of the largest city in the county.

(c) One (1) commissioner from a list submitted by the local restaurant association or associations.

(3) ***Except in a county containing a consolidated local government,*** the county judge/executive shall, with the approval of the fiscal court, appoint three (3) commissioners in the following manner:

(a) One (1) commissioner from a list submitted by the local county hotel and motel association, provided that if only one (1) local hotel and motel association exists which covers both the city and county, then the local hotel and motel association shall submit a list to the county judge/executive.

(b) One (1) commissioner from a list submitted by the board of directors of ***the largest incorporated thoroughbred horse racing concern in the county***[~~Churchill Downs, Inc.~~], which list shall contain only directors, officers or employees of ***that corporation***[~~Churchill Downs, Inc~~].

(c) One (1) commissioner who is a resident of the county and who has an active interest in the convention and tourist industry.

(4) ***Except in a county containing a consolidated local government,*** the Governor shall appoint three (3) commissioners in the following manner:

(a) One (1) commissioner from a list submitted by the State Fair Board.

(b) One (1) commissioner from a list submitted by the ***local countywide air board***[~~Louisville and Jefferson County Air~~

~~Board~~].

(c) One (1) commissioner shall be appointed***, in those counties not containing a consolidated local government,*** who is a resident of the county. ***In those counties containing a consolidated local government, one (1) commissioner shall be appointed who is a resident of the area comprising the consolidated local government.***

(5) Vacancies shall be filled in the manner that original appointments are made.

(6) When a list as provided in parts (2) and (3) of this section contains less than three (3) names or when a selection from such list is not made, the appointing authority shall request in writing the submission of a new list of names.

(7) ***Except in a county containing a consolidated local government,*** the commissioners shall be appointed for a term of three (3) years, provided that in making the initial appointments, the mayor, county judge/executive and Governor of the Commonwealth shall each appoint one (1) commissioner for a term of one (1) year, one (1) commissioner for a term of two (2) years, and one (1) commissioner for a term of three (3) years.

(8) ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing such city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the commission shall have nine (9) members. Six (6) members of the commission shall be appointed by the mayor of the consolidated local government pursuant to the provisions of Section 1 of this Act for a term of three (3) years. The Governor of the Commonwealth shall appoint three (3) members of the commission for a term of three (3) years. Incumbent members upon the establishment of the consolidated local government shall continue to serve as members of the board for the time remaining of their current term of appointment.***

(9) The commission shall elect from its membership a chairman and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purposes of KRS 91A.350 to 91A.390. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services and other services and materials relating to the promotion of tourist and convention business; provided, contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials such as advertising firms, chambers of commerce, publishers and printers.

(10)[~~(9)~~] The books of the commission shall be audited by an independent auditor who shall make a report to the commission, to the organizations submitting names from which commission members are selected, and to the mayor ***of a city or a consolidated local government***, the county judge/executive ***in counties not containing a consolidated local government,*** and the Governor of the Commonwealth.

(11)[~~(10)~~] Commission members appointed by the Governor shall serve at the pleasure of the Governor. Commission members appointed by the mayor ***of a city or a consolidated local government*** or the county judge/executive may be removed as provided by KRS 65.007.

Section 104. KRS 91A.390 is amended to read as follows:

(1) The commission shall annually submit to the local governing body or bodies which established it a request for funds for the operation of the commission. The local governing body or bodies shall include the commission in the annual budget and shall provide funds for the operation of the commission by imposing a transient room tax, not to exceed three percent (3%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. In addition to the three percent (3%), the local governing body may impose a special transient room tax not to exceed one percent (1%) for the sole purpose of meeting the operating expenses of a convention center. A transient room tax imposed by an urban-county government shall not exceed four percent (4%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. Transient room taxes shall not apply to the rental or leasing of an apartment supplied by an individual or business that regularly holds itself out as exclusively providing apartments. Apartment means a room or set of rooms, in an apartment building, fitted especially with a kitchen and usually leased as a dwelling for a minimum period of thirty (30) days or more. The local governing body or bodies that have established a commission by joint or separate action shall enact an ordinance for the enforcement of the tax measure enacted pursuant to this section and the collection of the proceeds of this tax measure on a monthly basis.

(2) All moneys collected pursuant to this section and KRS 91A.400 shall be maintained in an account separate and unique from all other funds and revenues collected, and shall be considered tax revenue for the purposes of KRS 68.100 and KRS 92.330.

(3) A portion of the money collected from the imposition of this tax, as determined by the, tax levying body, upon the advice and consent of the tourist and convention commission, may be used to finance the cost of acquisition, construction, operation, and maintenance of facilities useful in the attraction and promotion of tourist and convention business. The balance of the money collected from the imposition of this tax shall be used for the purposes set forth in KRS 91A.350. Proceeds of the tax shall not be used as a subsidy in any form to any hotel, motel, or restaurant. Money not expended by the commission during any fiscal year shall be used to make up a part of the commission's budget for its next fiscal year.

(4) An urban-county government may impose an additional tax, not to exceed one percent (1%) of the room rents included in

this subsection. This additional tax shall be collected and administered in the same manner as the regular tax with the exception that this additional tax shall be used for the purpose of funding the purchase of development rights program provided for under KRS 67A.845.

(5) Local governing bodies which have formed multicounty tourist and convention commissions as provided by KRS 91A.350(3) may impose an additional tax, not to exceed one percent (1%) of the room rents. This additional tax, if approved by each governing body, shall be collected and administered in the same manner as the regular tax, with the exception that this additional tax shall be used for the purpose of funding regional efforts relating to the promotion of tourist and convention business and convention centers. In no event shall any revenues collected as provided for under KRS 91A.350(3) be utilized for the construction, renovation, maintenance, or additions to any convention center that is located outside the boundaries of the Commonwealth of Kentucky.

(6) The commission, with the approval of the tax levying body, may borrow money to pay its obligations that cannot be paid at maturity out of current revenue from the transient room tax, but shall not borrow a sum greater than can be repaid out of the revenue anticipated from the transient room tax during the year the money is borrowed. The commission may pledge its securities for the repayment of any sum borrowed.

(7) The fiscal court or legislative body of a ***consolidated local government or*** city establishing a commission pursuant to KRS 91A.350(1) or (2) and, in its own name, a commission established pursuant to of KRS 91A.350(1) is authorized and empowered to issue revenue bonds pursuant to KRS Chapter 58 for public projects. Bonds issued for the purposes of KRS 91A.350 to 91A.390, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county***, consolidated local government,*** or city. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58.

(8) A commission established pursuant to KRS 91A.350(3) is authorized and empowered to issue revenue bonds in its own name, payable solely from its income and revenue, pursuant to KRS Chapter 58 for revenue bonds for public projects. Bonds issued for the purposes of KRS 91A.350 to 91A.390, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county. All bonds sold pursuant to this section shall be subject to competitive bidding as provided by law, and shall not bear interest at rates exceeding those for bonds issued for public projects under KRS Chapter 58.

Section 105. KRS 91A.392 is amended to read as follows:

(1) In addition to the three percent (3%) transient room tax authorized by KRS 91A.390 and the one percent (1%) transient room tax authorized by KRS 153.440, ***a consolidated local government, or*** the fiscal court in a county containing a city of the first or second class, except those counties that are included in a multicounty tourist and convention commission under KRS 91A.350, may levy an additional transient room tax not to exceed two percent (2%) of the rent for every occupancy of a suite, room, or rooms charged by all persons, companies, corporations, or other similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or similar accommodations businesses.

(2) All money collected from the tax authorized by this section shall be applied toward the retirement of bonds issued pursuant to KRS 91A.390(7) to finance in part the expansion or construction or operation of a governmental or nonprofit convention center or fine arts center useful to the promotion of tourism located in the central business district of the ***consolidated local government or the*** city of the first or second class located in the county.

(3) After the retirement of the bonds provided for in this section, the additional transient room tax levied pursuant to this section shall be void, and the ***consolidated local government or*** fiscal court shall take action to repeal the ordinance which levied the tax.

Section 106. KRS 96.030 is amended to read as follows:

No exclusive privilege shall be acquired through the sale of a franchise under KRS 96.010 by a ***consolidated local government or a*** city of the first class. The sale of a franchise to one (1) person by ***a consolidated local government or*** a city of the first class shall not prevent a subsequent sale of a similar franchise to another person.

Section 107. KRS 96.040 is amended to read as follows:

(1) If a city of the first class ***or a consolidated local government*** desires to own or operate a utility being operated under a franchise, and the city ***or consolidated local government*** takes the necessary steps within two (2) years before the expiration of the franchise, and offers to purchase, at a fair valuation, the plant of the company which is then rendering the service, the city ***or consolidated local government*** shall be under no obligation to sell, renew or continue the franchise.

(2) The fair valuation of the plant shall be determined by three (3) persons; one (1) to be selected by the city ***or consolidated***

local government, one (1) to be selected by the owners of the plant, and the third to be selected by these two (2). The plant shall be valued as a going concern, but no allowance shall be made for future growth.

Section 108. KRS 96.230 is amended to read as follows:

Whenever any city of the first class ***or consolidated local government*** owns, through its commissioners of the sinking fund ***or revenue commission, respectively***, all the shares of capital stock in any corporation engaged in supplying water to[~~ the city and~~] its inhabitants, the city ***or consolidated local government*** shall control, manage and operate the plant of the corporation, its franchise, and all its other property, in the manner provided in KRS 96.240 to 96.310. The provisions of KRS 96.230 to 96.310 shall not affect the status of the stock as part of the assets of the sinking fund ***or revenue commission, respectively***.

Section 109. KRS 96.240 is amended to read as follows:

The mayor ***of a consolidated local government which is formed upon the consolidation of a city of the first class with its county, and which receives upon the consolidation from the city of the first class the shares of capital stock in any corporation engaged in supplying water to the area comprising the consolidated local government,*** shall appoint, subject to the ***provisions of Section 1 of this Act, six (6)***[~~approval of the city legislative body, four (4)~~] persons no more than ***three (3)***[~~two (2)~~] of whom shall be members of the same political party, who with the mayor as an ex officio member shall constitute a body corporate known as the "board of waterworks"[~~; and if the board of waterworks operates mains and lines and serves in excess of fifty thousand (50,000) customers outside the corporate limits of a city of the first class but in the county in which the city is located, the county judge/executive shall appoint two (2) persons, who shall be of different political parties, to serve on and be members of the board of waterworks~~]. Each appointee shall be at least thirty (30) years of age and shall be a resident of the ***county containing a consolidated local government***[~~city, if appointed by the mayor, or of the county, if appointed by the county judge/executive,~~] and be the owner in his ***or her*** own right of real estate situated in the ***consolidated local government***[~~city if appointed by the mayor, or in the county if appointed by the county judge/executive~~]. At least one (1) such appointee shall be qualified, as specified in KRS 96.250, to serve as president of the board. No officer or employee of the ***consolidated local government***[~~city~~], whether holding a paid or unpaid office, shall be eligible for appointment to the board. Of the persons first appointed ***two (2)***[~~one (1)~~] shall be appointed[~~ for a term of one (1) year, one (1)~~] for a term of two (2) years, ***two (2)***[~~one (1)~~] for a term of three (3) years, and ***two (2)***[~~one (1)~~] for a term of four (4) years and such terms shall expire on the date of the annual meeting of the board of waterworks. Their successors shall be appointed in the same manner, but for terms of four (4) years each.[~~ At such time as the board of waterworks serves on a retail basis in excess of fifty thousand (50,000) customers outside the corporate limits of a city of the first class, the president of the board shall notify the county judge/executive who shall immediately appoint two (2) members as hereinabove provided, one (1) for a term of two (2) years and one (1) for a term of four (4) years; and their successors shall be appointed by the county judge/executive for terms of five (5) years each.~~] Appointees shall be eligible to succeed themselves. All vacancies shall be filled for the unexpired term by appointment in the same manner. Each member shall hold his office until his ***or her*** successor has been appointed and qualified. The oath of office of each member shall be filed with the board of ***the revenue commission of the consolidated local government***[~~sinking fund commissioners~~].

Section 110. KRS 96.260 is amended to read as follows:

The board of waterworks shall be vested with all the authority and privileges, exercise all the franchises, and have possession, control and management of all the property, of the corporation of which the ***consolidated local government or*** city owns all the stock. It may make contracts and sue and be sued, but only in the name of the corporation.

Section 111. KRS 96.270 is amended to read as follows:

The ***consolidated local government***[~~city~~] shall have, through its board of waterworks, the use free of charge of all the water necessary for its fire department, police department, public buildings ***principally occupied by its employees***[~~and school board, and for sprinkling its public highways~~], parks***,***[~~ and~~] parkways***, its property principally used for public purposes, all of its agencies, and any waterfront parks located within the boundaries of the consolidated local government***. It shall in turn exempt from taxation for ***consolidated local government***[~~city~~] purposes all the property of which it has the control through its board of waterworks. Nothing in this section shall affect the right and duty of the board of waterworks to fix and collect reasonable rates for the use of water furnished to any other person, whether by assessment or meter measurement.

Section 112. KRS 96.280 is amended to read as follows:

The[~~ city~~] legislative body ***of the consolidated local government*** may, by ordinance, fix reasonable conditions upon which the board of waterworks may cut into the public ways of the ***consolidated local government***[~~city~~].

Section 113. KRS 96.290 is amended to read as follows:

All the existing obligations of the waterworks corporation and all the obligations created by the board of waterworks in the management and operation of the properties and in the performance of its duties, shall be discharged out of the property and rents, earnings and incomes of the waterworks. The ***consolidated local government***[~~city~~] shall not be liable as a municipal corporation for such obligations.

Section 114. KRS 96.310 is amended to read as follows:

The board of waterworks may establish and enforce reasonable rules and regulations for its own government. The board shall make a quarterly financial statement, showing its liabilities, receipts and expenditures, and deliver a copy to the ***consolidated local government***[~~city~~] legislative body ***for introduction and inclusion into***[~~to be spread upon~~] the minutes of the legislative body. The books and accounts of the board shall at all times be open to inspection by the mayor and the commissioners of the sinking fund

or revenue commission, respectively, through their agents.

Section 115. KRS 96.550 is amended to read as follows:

As used in KRS 96.550 to 96.900, unless the context requires otherwise:

(1) "Acquire" shall mean and include construct, acquire by purchase, by lease, devise, gift, or the exercise of the right of eminent domain in the manner now or hereafter provided by law for the exercise thereof and acquisition by any other mode.

(2) "Board" shall mean a board of public utilities established pursuant to KRS 96.740.

(3) "Bonds" shall mean either general obligation bonds or revenue bonds.

(4) "Constitution" shall mean the Constitution of Kentucky.

(5) "Electric plant" shall mean and include any plant, works, systems, facilities and properties (including poles, wires, stations, transformers, and any and all equipment and machinery), together with all parts thereof and appurtenances thereto, used or useful in the generation, production, transmission or distribution of energy.

(6) "Energy" shall mean and include any and all electric energy no matter where or how generated, produced, transmitted or conveyed.

(7) "Electric service" shall mean the furnishing of electric power and energy for any purpose for which electric power and energy can be used.

(8) "General obligation bonds" shall mean direct or general obligations of any municipality, issued within the limits and subject to the provisions of Sections 157 and 158 of the Constitution.

(9) "Governing body" shall mean the board, council, commission, fiscal court, or other general governing body of the municipality.

(10) "Governmental agency" includes the United States, the President, the federal works agency, the federal lending agency, Tennessee Valley Authority, or any other similar agency, instrumentality or corporation of the United States, or of Kentucky or any political subdivision thereof, created by or pursuant to any Act of Congress or by state legislation.

(11) "Improve" shall mean and include construct, reconstruct, improve, extend, enlarge, alter, better and repair.

(12) "Improvement" shall mean any improvement, extension, betterment or addition to any electric plant.

(13) "Law" shall mean any statute of this state.

(14) "Mayor" shall mean the mayor of any class city unless there be a city manager, then it shall mean city manager, or the county judge/executive of any county. ***"Mayor" shall also mean the mayor of a consolidated local government.***

(15) "Municipality" shall mean any county, city, ***consolidated local government,***[~~town or village~~] or municipal corporation of any and every class in the Commonwealth of Kentucky.

(16) "Revenue bonds" shall mean obligations payable solely from the revenues derived from the operation of an electric plant and such bonds shall not constitute an indebtedness of any municipality within the meaning of the provisions or limitations of the Constitution.

(17) "Net revenues" shall mean revenues remaining after payments of (a) all payments provided for herein to be made to the state, county, school or other taxing district; (b) the payments of salaries, and premiums on bonds of officers and employees of the board; and (c) all other ordinary and necessary operating expenses of the board in the operation of the electric plant including reserves for depreciation.

Section 116. KRS 96A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires, the following words or terms shall mean as follows:

(1) "City" means any incorporated city in the Commonwealth;

(2) "County" means any county in the Commonwealth wherein there is located an incorporated city and for the purpose of this chapter shall also mean a county which has adopted an urban-county government ***or consolidated local government***;

(3) "State" means the Commonwealth;

(4) "Transit authority" or "authority" means a transit authority created pursuant to this chapter;

(5) "Board" means the board of a transit authority;

(6) "Public body" means any city or county of the Commonwealth;

(7) "Governing body" means, as to a county, the fiscal court thereof; ***as to a consolidated local government , the legislative council thereof;*** and as to a city, the legislative body thereof, howsoever the same may be denominated according to law;

(8) "Proceedings" means, in the case of a county, a resolution of its fiscal court; and in the case of a city ***or consolidated local government***, an ordinance adopted and made effective according to law by its governing body;

(9) "Joint proceedings" relates only to the establishment of a transit authority by two (2) or more public bodies acting in concert or by agreement, and means the proceedings, taken collectively, by the governing bodies of the public bodies, participating in the creation and establishment of a transit authority;

(10) "Appointing authority" means, as to a county, the county judge/executive thereof; and as to any city ***or consolidated local government***, the elected chief ***executive*** officer~~[thereof]~~, whether designated as its mayor or~~[the chairman of its board of trustees or]~~ otherwise;

(11) "Area" or "transit area" means the geographical area which may be encompassed from time to time within the lawful boundaries of such cities and counties as may be involved in the creation and establishment of an authority; and of any cities or counties within any single unified metropolitan area which may subsequently become participants as provided in this chapter;

(12) "Mass transit," or "mass transportation," means the transportation of persons and their baggage within or without a transit area, but shall not include the for-hire operation of a taxicab, or industrial bus as defined by KRS Chapter 281;

(13) "Human service transportation delivery" means the same as defined in KRS 281.014;

(14)"Delivery area" means the same as defined in KRS 281.014; and

(15) "Broker" means the same as defined in KRS 281.014.

Section 117. KRS 96A.040 is amended to read as follows:

(1) The business, activities and affairs of a transit authority shall be managed, controlled and conducted by a board consisting of members appointed as follows:

(a) If the authority is established by one (1) city alone, or by a county alone, the members shall be eight (8) in number and shall be appointed by the appointing authority of such city or county;

(b) If the authority is established by joint proceedings of two (2) public bodies, the membership shall be eight (8) in number, four (4) of whom shall be appointed by the appointing authority of each of such public bodies;

(c) If an authority is created and established by joint proceedings of more than two (2) public bodies, the membership shall be eight (8) in number, plus one (1) additional member for each participating public body in excess of two (2), and the members thereof shall be appointed by the appointing authorities of the participating public bodies in such manner as may be set forth in the joint proceedings; and

(d) If an authority is created and established, and subsequently one (1) or more other public bodies are permitted to join therein, the membership of the board may be enlarged, with the concurrence and approval of the governing bodies of the public bodies theretofore participating, by not more than one (1) additional member for each additional public body so permitted to join the authority.

(2) No officer or employee of any public body represented in the creation, establishment, or enlargement of an authority shall be eligible for appointment to the board.

(3) After the effective date of the creation of an authority as provided in this chapter, the appointing authority or the appointing authorities, as the case may be, shall, in such manner as may be specified in the proceedings or joint proceedings, appoint at least two (2) members for terms of one (1) year, at least two (2) members for terms of two (2) years, at least two (2) members for terms of three (3) years, and the remaining number for terms of four (4) years; such terms to expire, in each instance, on June 30 and thereafter until a successor is appointed and accepts appointment. Upon the expiration of these initial staggered terms, successors shall be appointed by the respective appointing authorities, for terms of four (4) years, and until successors are appointed and accept their appointments. Members shall be eligible for reappointment.

(4) Any member of the board may be removed by his or her appointing authority for inefficiency, neglect of duty, malfeasance, conflict of interest, or want of mental or physical capacity to serve. Any appointing authority exercising the power to remove a member of the board shall submit to the board a written statement setting forth the reasons for removal. Notice shall be given to the member named in such statement; a hearing, if requested, shall be conducted within thirty (30) days before the members of the board who are not the subject of such removal proceedings; a record of the hearing shall be made by the secretary-treasurer of the board; and the member named in such removal notice may appeal any adverse decision, within ten (10) days after the rendering thereof, to the Circuit Court of any county which is served in whole or in part by the facilities of the transit authority, such appeal to be perfected by filing with the clerk of such court a copy of the removal proceedings certified by the secretary-treasurer of the board. The court, upon application of the member removed, may in its discretion order that the original record of the proceedings be filed with the clerk as the basis for such appeal. There shall be a right of appeal to the Court of Appeals.

(5) Members of the board shall be allowed reasonable expenses necessarily incurred by them in the conduct of the affairs of the authority. Compensation may be paid to members of the board if so provided in the proceedings or joint proceedings, subject to such limitations as may be set forth therein.

(6) Notwithstanding subsection (3) of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the terms of the members on the board shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, the mayor, and county judge/executive with the approval of the fiscal court, shall adjust the terms of the sitting members so that the terms of two (2) of each of their appointments expire in one (1) year, the term of one (1) of each of their appointments expire in two (2) years and the term of one (1) of each of their appointments expire in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years. ***Upon the establishment of a consolidated local***

government in a county where a city of the first class and a county containing such city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, all members of the board shall be appointed by the mayor of the consolidated local government pursuant to the provisions of Section 1 of this Act for a term of three (3) years. Incumbent members upon the establishment of the consolidated local government shall continue to serve as members of the board for the time remaining of their current term of appointment.

Section 118. KRS 96A.070 is amended to read as follows:

(1) The board shall, within sixty (60) days after the appointment of its entire initial membership, and thereafter in July of each year, elect from its members a chairman and a vice chairman. It may, in its discretion, employ an executive director and a secretary-treasurer, neither of whom shall be a member of the board; provided, however, if the creation and establishment of the authority is shown by the provisions of the proceedings or joint proceedings to have been undertaken only on a stand-by basis, the board may defer the employment of an executive director and may, on an interim basis, designate a secretary-treasurer from its own membership.

(2) The board may, in its discretion, employ necessary legal counsel and other agents and employees to carry out its work and functions, and may from time to time prescribe and alter such rules and regulations as it may deem necessary.

(3) The executive director, if and when employed in the discretion of the board, shall be experienced and knowledgeable in the field of transportation; and if and when employed, such executive director shall be the chief executive officer of the authority, having such powers and duties as the board may prescribe. Such executive director may recommend the establishment or alteration of rules and regulations, and of rates and charges for use of the services and facilities of the mass transportation system of the authority; but action in such respects, and in the issuance of revenue bonds or mortgage bonds of the authority, and in requesting the issuance of general obligation bonds by other public bodies for the benefit of the authority, and in authorizing leases of the properties of the authority for financing purposes, shall be taken by the board, or by the executive committee of the board if properly thereunto authorized.

(4) The secretary-treasurer shall keep the minutes of all meetings of the board, and shall also keep a set of books showing the receipts and expenditures of the board. He *or she* shall preserve on file duplicate vouchers for all expenditures and shall present to the board, upon request, complete reports of all financial transactions and the financial condition of the board. Such books and vouchers shall at all times be subject to examination by the governing body of any public body by which the authority was created or enlarged. He *or she* shall transmit at least once annually a detailed report of all acts and doings of the board to the public body or bodies by whom the board was created. He *or she* shall cause all moneys of the authority coming into his *or her* hands to be deposited in one (1) or more financial institutions, as designated from time to time by the board.

(5) The board shall require its secretary-treasurer, and its executive director, if and when such executive director shall be employed, each to execute bond in favor of the authority, in such respective penal sums as the board may fix, in favor of the authority, and conditioned upon faithful performance of the duties of such offices and full accounting to the authority. Each such bond shall be with corporate surety, provided by a corporate surety company qualified to transact business in Kentucky and approved, in each instance, by the board. The board may in like manner require similar bonds, with corporate surety, to be given by other officers, agents and employees in such manner and in such penal sums, as it may specify from time to time. Premiums payable to sureties upon such bonds shall be paid by the authority and may be chargeable as an operating expense of the authority.

(6) The board shall fix the salaries, wages or other compensation of the officers, agents and employees whom it may engage from time to time; in each case within such limitations, if any, as may be prescribed in the proceedings or joint proceedings set forth in the establishment of the authority, or as such proceedings may be amended; but such salaries, wages or other compensation shall constitute obligation of the authority only, and shall be payable from the authority's revenues and any other available resources, and shall not constitute obligations of any city or county participating in the creation and establishment, or subsequent enlargement, of the authority.

(7) The board may, by resolution duly adopted and spread at large upon its public records, establish an executive committee, composed of such members of the board as may be specified in such resolution, and may authorize such executive committee to exercise in intervals between board meetings any powers of the board except those powers which are expressly required by this chapter or by other controlling provisions of law to be exercised by the board.

(8) The board may create such other committees of its members as it may deem necessary or proper; but the same shall be advisory in nature and shall report to the board or to the executive committee, and shall not be authorized to take any independent action except in such advisory capacity.

(9) Notwithstanding other provisions of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the executive director and a secretary-treasurer or any individual, corporation or partnership, either by contract or employment, who serves as executive director or secretary-treasurer in the management of the affairs of the board, shall be appointed by and serve at the joint pleasure of the mayor, and the county judge/executive with the approval of fiscal court pursuant to KRS 67.040. *Upon the establishment of a consolidated local government in a county in which a city of the first class and a county containing the city have had in effect a cooperative compact under KRS 79.310 to 79.330, an executive director or secretary-treasurer shall be appointed by and shall serve at the pleasure of the mayor.*

Section 119. KRS 97.035 is amended to read as follows:

(1) If two (2) or more political subdivisions determine to jointly establish, maintain and conduct a park and recreation system or systems, which may include but shall not be limited to the establishment, maintenance, and conduct of zoos and museums, the legislative bodies of such counties, cities or other districts involved may by ordinance, order, or resolution approve a plan for the establishment of such joint project and for the creation of a joint board representative of the subdivisions involved, and possessed with all the powers and duties of KRS 97.010 to 97.050. This subsection authorizes the creation of a joint board by any two (2) or more cities or any city and county for purposes of establishment, maintenance, and conduct of zoos and the creation of another joint board for purposes of establishment, maintenance, and conduct of museums.

(2) ***Except in a county containing a consolidated local government,*** such board shall consist of not less than five (5) members. The plan shall provide for distribution of membership and all participating governmental units shall have representation thereon. The members of the board shall be appointed by the county judge/executive, mayor of the city or governing body of the district, as the case may be, for terms of four (4) years to serve at the pleasure of the appointing authority. Vacancies shall be filled for unexpired terms by appointment of the authority appointing the member whose office is vacant. The terms of office of such members shall be staggered as provided by order or resolution of the political subdivisions concerned. Members of the board shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

(3) The board shall be a body corporate for all purposes, and shall elect from its membership a chairman, secretary, and treasurer. The treasurer shall execute a bond conditioned on the faithful performance of his ***or her*** duties sufficient in amount to cover funds coming into his ***or her*** hands. The premium on such bond shall be paid from board funds.

(4) Any park, playground, or recreation system operated jointly by two (2) or more political subdivisions as provided in KRS 97.010 (2), on June 19, 1958, shall be governed by this section.

(5) Notwithstanding subsections (1), (2) and (3) of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, such city and county shall by joint action create a joint city/county department to maintain and conduct a park and recreational system or systems. In such event, the board shall be dissolved as a corporate entity and all assets and liabilities of the board shall be transferred to the joint department. An advisory board may be established by joint agreement of such city and county. ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing such city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the joint department shall become a department of the consolidated local government and all assets and liabilities of the joint department shall be transferred to the consolidated local government. An advisory board may be established or maintained by a consolidated local government. Members of the advisory board shall be appointed pursuant to the provisions of Section 1 of this Act and shall serve at the pleasure of the mayor of the consolidated local government.***

Section 120. KRS 98.300 is amended to read as follows:

In each county containing a city of the first class, the fiscal court of ***the***[~~said~~] county may, by resolution, establish a department of welfare to be governed by the provisions of KRS 98.300 to 98.390. ***A consolidated local government may by resolution or ordinance establish or maintain a department of welfare to be governed by the provisions of KRS 98.300 to 98.390.*** Such department shall function from a date specified in such resolution ***or ordinance***. The department shall consist of a director of welfare and such assistants and other employees as are necessary for the efficient performance of the welfare services of the county.

Section 121. KRS 98.310 is amended to read as follows:

The director shall be appointed by the fiscal court ***except in those counties containing a consolidated local government, in which case the director shall be appointed by the mayor***. The director shall be trained and experienced in public welfare administration. Subject to rules and regulations approved by the fiscal court ***or the consolidated local government, respectively***, the director shall have full charge of the department, with power to employ and dismiss employees subject to the limitations of KRS 98.370. The director shall prepare for submission to and approval of the fiscal court ***or the consolidated local government, respectively,*** an annual budget, authorize expenditures in conformity with the budget and prepare an annual report of the activities and expenditures of the department for submission to the fiscal court ***or the consolidated local government, respectively***. Before entering upon the discharge of his ***or her*** duties, the director shall give a bond approved by the fiscal court ***or the consolidated local government, respectively***, and the fiscal court ***or the consolidated local government, respectively,*** may, in its discretion, require bonds for other employees within the department.

Section 122. KRS 98.350 is amended to read as follows:

The fiscal court***, except in a county containing a consolidated local government, in which case it shall be the mayor pursuant to the provisions of Section 1 of this Act,*** shall appoint a bipartisan county welfare advisory board of not less than five (5) nor more than nine (9) residents of the county. The members shall be appointed in such a manner that the term of at least one (1) member shall expire annually. Any vacancy shall be filled for the unexpired term in the same manner as the original appointment. Members of the county welfare advisory board shall serve without compensation. The county welfare advisory board shall suggest rules and regulations to the county director of welfare with respect to the organization of the county department of welfare, and shall advise the director and the fiscal court ***or consolidated local government, respectively, as***[~~with respect~~] to budget estimates, policies and other problems of welfare activities.

Section 123. KRS 99.595 is amended to read as follows:

(1) "Administering agency" means the agency delegated responsibility by the legislative body to implement the provisions of KRS 99.595 to 99.605 and 132.452.

(2) "Commercial facility" means any structure the primary purpose and use of which is the operation of a commercial business enterprise and which is twenty-five (25) years old or older.

(3) "Existing residential building" means a residential building which has been in existence for at least twenty-five (25) years and use of which is to provide independent living facilities for one (1) or more persons.

(4) "Legislative body" means the board of aldermen in a city of the first class operating under KRS Chapter 83, the city council in a city operating pursuant to KRS 83A.130, the city commission in a city operating pursuant to KRS 83A.140, the board of commissioners in a city operating pursuant to KRS 83A.150, the fiscal court in a county, ***the legislative council in a consolidated local government operating pursuant to KRS Chapter 67C,*** and the legislative body in an urban-county government operating pursuant to KRS Chapter 67A.

(5) "Local government" means a county, municipal, ***consolidated local government,*** or urban-county government.

(6) "Rehabilitation" means the process of returning an existing structure to a state of utility through repair or alteration which makes possible an efficient contemporary use.

(7) "Repair" means the reconstruction or renewal of any part of an existing structure for the purpose of maintenance.

(8) "Restoration" means the process of accurately recovering the form and details of a structure and its setting as it appeared at a particular period of time by removal of later work or by the replacement of missing earlier work.

(9) "Stabilization" means the process of applying measures designed to reestablish a weather resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists.

(10) "Assessment or reassessment moratorium" means the act of deferring the value of the improvements from the taxable assessment of qualifying units of real property for a maximum period of five (5) years.

Section 124. KRS 99.615 is amended to read as follows:

The following words or terms shall have the following meanings wherever used in KRS 99.610 to 99.680 unless a different meaning is clearly indicated by the context:

(1) "Act" means KRS 99.610 to 99.680 which may be called the "Local Development Authority Act";

(2) "Technical advisory council" means that committee appointed under the terms of KRS 99.655;

(3) "Price advisory council" means that committee appointed under the terms of KRS 99.680;

(4) "Agency" means a development authority established by this statute in and for cities of the first and second class***, a consolidated local government,*** and each county governed under the statutes permitting the establishment of urban-county governments;

(5) "Bonds" means any bonds, notes, interim certificates, debentures or other obligations issued by an agency pursuant to the provisions and purposes of KRS 99.610 to 99.680;

(6) "Project area" means any area or specific property designated by an agency or any area or specific property actually acquired or formally proposed for acquisition by an agency, for historical or open space preservation purposes or for the development permitted by KRS 99.610 to 99.680;

(7) "City" means any city of the first or second class***, a consolidated local government,*** or ***a*** county governed under the urban-county government statute, in which an agency has been established;

(8) "Development" means the acquisition, planning, designing, clearance, renovation or rehabilitation of existing improvements, development and disposal, or any combination thereof, of a project area, including the preparation of such project area for the development of residential, commercial, industrial, public, recreational, open space or other uses, including the preservation of existing residential, commercial, industrial, public, recreational, open spaces or other uses valued locally for their economic or historical importance as may be appropriate or necessary, in the opinion of the board of commissioners of an agency;

(9) "Subdevelopment" means the actual construction, renovation or rehabilitation of improvements to real property including the installation of or improvement to existing utilities, curbs, gutters, sidewalks, storm sewers and other necessary works and improvements, consistent with the established development plan for each specific project area in order to market, through private enterprise, said improvements to individuals, commercial business and industry;

(10) "Development plan" means the plan for the development as defined, of all or any part of a project area;

(11) "Mayor" means the mayor of a first or second class city***, of a consolidated local government,*** or of an urban-county government as established by law;

(12) "Governing board" means a board of aldermen or commissioners***, a legislative council in a consolidated local government,*** or a common or urban-county council of a city as herein defined, as the case may be;

(13) "Project" means any undertaking within a project area and any such undertaking which may be included in, and financed

by, a single or separate financing agreement or bond issue;

(14) "Persons and families of lower income" means persons and families who lack the amount of income which is necessary (as determined by standards established by the agency) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding;

(15) "Residential housing project" means a specific work or improvement undertaken primarily to provide or to rehabilitate dwelling accommodations for persons and families of lower income, including the acquisition, construction and rehabilitation of land, buildings and improvements and such other facilities as may be incidental or appurtenant thereto.

Section 125. KRS 99.620 is amended to read as follows:

There is hereby authorized, created and established in cities of the first and second class***, consolidated local governments,*** and counties governed under the urban-county government statutes, upon adoption of a resolution so declaring by a majority of the governing board of said cities***, consolidated local governments,*** or counties, an agency to be known by the name of the city, ***the consolidated local government,*** or in the case of an urban-county government, the largest city in such county and the name of the county itself, separated by the word "and," and the words "Development Authority." Said agency shall exist for each such city***,*** ***consolidated local government,*** or county with the powers, duties, and functions hereinafter provided.

Section 126. KRS 99.660 is amended to read as follows:

A city***, consolidated local government,*** or urban-county shall have the power to aid an agency in any manner provided for aid by public bodies to urban renewal and community development agencies by KRS 99.410.

Section 127. KRS 99.700 is amended to read as follows:

(1) It is hereby found:

(a) That there exists in many cities and in counties containing a city of the first class ***or consolidated local government*** in this Commonwealth blighted and deteriorated properties in neighborhoods which cause the deterioration of those and contiguous neighborhoods and constitute a serious and growing menace which is injurious to the public health, safety, morals and general welfare of the residents of the Commonwealth, and are beyond remedy and control solely by regulatory process in the exercise of the police power;

(b) That the existence of blighted and deteriorated properties within neighborhoods, and the growth and spread of blight and deterioration or the threatened deterioration of other neighborhoods and properties:

1. Contribute substantially and increasingly to the spread of disease and crime, and to losses by fire and accident;
2. Necessitate expensive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, and punishment, for the treatment of juvenile delinquency, for the maintenance of adequate police, fire and accident protection, and for other public services and facilities;
3. Constitute an economic and social liability;
4. Substantially impair or arrest the sound growth of the community;
5. Retard the provision of decent, safe, and sanitary housing accommodations;
6. Depreciate assessable values;
7. Cause an abnormal exodus of families from these neighborhoods; and
8. Are detrimental to the health, the well-being and the dignity of many residents of these neighborhoods;

(c) That this menace cannot be effectively dealt with by private enterprise without the aids provided herein;

(d) That the benefits which would result from eliminating the blighted properties that cause the blight and deterioration of neighborhoods will accrue to the inhabitants of the neighborhoods in which these conditions exist and to the inhabitants of this Commonwealth generally.

(2) It is hereby declared:

(a) That it is the policy of this Commonwealth to protect and promote the health, safety, and welfare of the people of the Commonwealth by eliminating the blight and deterioration of neighborhoods through the elimination of blighted and deteriorated properties within these neighborhoods;

(b) That the elimination of such blight and deterioration and the preparation of the properties for sale or lease, for development or redevelopment, constitute a public use and purpose for which public money may be expended and private property acquired and are governmental functions in the interest of the health, safety, and welfare of the people of the Commonwealth;

(c) That the necessity in the public interest for the provisions enacted herein is hereby declared to be a legislative determination.

Section 128. KRS 99.705 is amended to read as follows:

Unless the context otherwise requires:

(1) "Blighted" or "deteriorated" property means any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly built-up neighborhood:

(a) Which because of physical condition or use is regarded as a public nuisance at common law or has been declared a public nuisance in accordance with the city, or in counties containing a city of the first class ***or consolidated local government***, with the[~~ county~~] housing, building, plumbing, fire or related codes;

(b) Which because of physical condition, use or occupancy is considered an attractive nuisance to children, including but not limited to abandoned wells, shafts, basements, excavations, and unsafe fences or structures;

(c) Which because it is dilapidated, unsanitary, unsafe, vermin-infested or lacking in the facilities and equipment required by the housing code of the city or county containing a city of the first class ***or consolidated local government***, has been designated by the department responsible for enforcement of the code as unfit for human habitation;

(d) Which is a fire hazard, or is otherwise dangerous to the safety of persons or property;

(e) From which the utilities, plumbing, heating, sewerage or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use;

(f) Which by reason of neglect or lack of maintenance has become a place for accumulation of trash and debris, or a haven for rodents or other vermin;

(g) Which has been tax delinquent for a period of at least three (3) years; or

(h) Which has not been rehabilitated within the time constraints placed upon the owner by the appropriate code enforcement agency.

(2) "Redevelopment" means the planning or replanning, design or redesign, acquisition, clearance, development and disposal or any combination of these, of a property in the preparation of such property for residential and related uses, as may be appropriate or necessary.

(3) "Residential and related use" shall mean residential property for sale or rental and related uses; including, but not limited to, park and recreation areas, neighborhood community service, and neighborhood parking lots.

(4) "Vacant property review commission" means a commission established by ordinance to review vacant properties to make a written determination of blight and deterioration.

Section 129. KRS 99.710 is amended to read as follows:

(1) If the legislative body of ***a consolidated local government,*** a city***,*** or ***a*** county containing a city of the first class finds and declares that there exists in the ***consolidated local government,*** city***,*** or county containing a city of the first class blighted or deteriorated properties and that there is need in the city or county [~~containing a city of the first class~~] for the exercise of powers, functions and duties conferred by KRS 99.705 to 99.730, the legislative body may adopt the provisions of KRS 99.705 to 99.730 by ordinance.

(2) The ordinance adopting the provisions of KRS 99.705 to 99.730 shall also establish a vacant property review commission which shall certify properties as blighted or deteriorated to the legislative body. The ordinance shall specify the duties of, the number of members that will serve on, the requirements of membership, and the makeup of the commission. Members shall be appointed by the mayor and approved by the legislative body. No officer or employee of the ***consolidated local government,*** city***,*** or county containing a city of the first class whose duties include enforcement of[~~ city or county~~] housing, building, plumbing, fire or related codes shall be appointed to the commission.

Section 130. KRS 99.720 is amended to read as follows:

(1) The legislative body shall not institute eminent domain proceedings pursuant to KRS 99.705 to 99.730 unless the commission has certified that the property is blighted or deteriorated. A property which has been referred to the commission by a city agency***,*** or ***by*** an agency in a county containing a city of the first class ***or consolidated local government***, as blighted or deteriorated may only be certified to the legislative body as blighted or deteriorated after the commission has determined:

(a) That the owner of the property or designated agent has been sent an order by the appropriate city***, consolidated local government,*** or county agency to eliminate the conditions which are in violation of local codes or law;

(b) That the property is vacant;

(c) That the property is blighted and deteriorated;

(d) That the commission has notified the property owner or designated agent that the property has been determined to be blighted or deteriorated and the time period for correction of such condition has expired and the property owner or agent has failed to comply with the notice; and

(e) That, in counties containing a city of the first class***, consolidated local governments,*** and cities that are within a planning unit established pursuant to KRS Chapter 100, the planning commission has determined that the reuse of the property for residential and related use is in keeping with the comprehensive plan.

(2) The findings required by subsection (1) of this section shall be in writing and included in the report to the legislative body.

(3) The commission shall notify the owner of the property or a designated agent that a determination of blight or deterioration has been made and that failure to eliminate the conditions causing the blight shall render the property subject to condemnation by the city***, consolidated local government,*** or county under KRS 99.705 to 99.730. Notice shall be mailed to the owner or designated agent by certified mail, return receipt requested. However, if the address of the owner or a designated agent is unknown and cannot be ascertained by the commission in the exercise of reasonable diligence, copies of the notice shall be posted in a conspicuous place on the property affected. The written notice sent to the owner or his agent shall describe the conditions that render the property blighted and deteriorated, and shall demand abatement of the conditions within ninety (90) days of the receipt of such notice.

(4) An extension of the ninety (90) day time period may be granted by the commission if the owner or designated agent demonstrates that such period is insufficient to correct the conditions cited in the notice.

Section 131. KRS 99.730 is amended to read as follows:

No officer or employee of the city or county containing a city of the first class ***or consolidated local government***, or of the vacant property review commission, who in the course of his ***or her*** duties is required to participate in the determination of property blight or deterioration or the issuance of notices on code violations which may lead to a determination of blight or deterioration, shall acquire any interest in any property declared to be blighted or deteriorated. If any such officer or employee owns or has financial interest, direct or indirect, in any property certified to be blighted or deteriorated, he ***or she*** shall immediately disclose, in writing, such interest to the commission and to the legislative body and such disclosure shall be entered in the minutes of the commission and of the legislative body. Failure to so disclose such interest shall constitute misconduct in office. No payment shall be made to any officer or employee for any property or interest therein acquired by the city***, consolidated local government,*** or county containing a city of the first class from such officer or employee unless the amount of such payment is fixed by court order in eminent domain proceedings, or unless payment is unanimously approved by the legislative body.

Section 132. KRS 99A.010 is amended to read as follows:

As used in this chapter unless the context otherwise requires:

(1) "Corporation" means the Kentucky Housing Corporation;

(2) "Executive director" means the executive director of the Kentucky Housing Corporation;

(3) "Insurer" means any company qualified to write mortgage guaranty insurance in accordance with Subtitle 23 of KRS Chapter 304;

(4) "Local government" means a county, city, ***consolidated local government,*** or urban-county;

(5) "Mortgage" shall mean a first mortgage on real estate, in fee simple, or on a leasehold under a lease for not less than ninety-nine (99) years which is renewable, or under a lease having a period of not less than fifty (50) years to run from the date the mortgage was executed;

(6) "Mortgage guaranty fund" means the fund created pursuant to KRS 99A.080;

(7) "Mortgagee" means the original lender under a mortgage and his successors and assigns;

(8) "Mortgagor" means the original borrower under a mortgage and his successors and assigns;

(9) "Rehabilitation" means the process of returning a structure to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to historical, architectural, and cultural values;

(10) "Rehabilitation loan" means a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit, made for the purpose of financing:

(a) The rehabilitation of an existing residential building;

(b) The rehabilitation of such a structure and the refinancing of the outstanding indebtedness on such structure and the real property on which the structure is located; or

(c) The rehabilitation of such a structure and the purchase of the structure and the real property on which it is located; and

(11) "Residential building" means a building in which sleeping accommodations or sleeping accommodations and cooking facilities as a unit are provided except when classified as an institution under the Kentucky Building Code.

Section 133. KRS 100.111 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative official" means any department, employee, or advisory, elected or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation;

(2) "Agricultural use" means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay,

pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public, and shall also include, regardless of the size of the tract of land used, small wineries licensed under KRS 243.155, and farm wineries licensed under the provisions of KRS 243.156;

(3) "Board" means the board of adjustment unless the context indicates otherwise;

(4) "Citizen member" means any member of the planning commission or board of adjustment who is not an elected or appointed official or employee of the city***,***[~~or~~] county***, or consolidated local government***;

(5) "Commission" means planning commission;

(6) "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;

(7) "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustment, consisting of two (2) parts:

 (a) A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and

 (b) A statement of the specific conditions which must be met in order for the use to be permitted;

(8) "Development plan" means written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant;

(9) "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;

(10) "Housing or building regulation" means the Kentucky Building Code, the Kentucky Plumbing Code and any other building or structural code promulgated by the Commonwealth or by its political subdivisions;

(11) "Legislative body" means the chief body of the city ***or consolidated local government*** with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;

(12) "Mayor" means the chief elected official of the city ***or consolidated local government*** whether the official designation of his office is mayor or otherwise;

(13) "Nonconforming use or structure" means an activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;

(14) "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;

(15) "Planning unit" means any city***,***[~~or~~] county, ***or consolidated local government,*** or any combination of cities, counties, or parts of counties***, or parts of consolidated local governments*** engaged in planning operations;

(16) "Plat" means the map of a subdivision;

(17) "Political subdivision" means any city***,***[~~or~~] county***, or consolidated local government***;

(18) "Several" means two (2) or more;

(19) "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including, but not limited to, libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;

(20) "Street" means any vehicular way;

(21) "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs;

(22) "Subdivision" means the division of a parcel of land into three (3) or more lots or parcels except in a county containing a city of the first, second or third class or in an urban-county government ***or consolidated local government*** where a subdivision means the division of a parcel of land into two (2) or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section;

(23) "Unit" means planning unit; and

(24) "Variance" means a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location

of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

Section 134. KRS 100.121 is amended to read as follows:

(1) At any time, the legislative bodies of cities and the fiscal court of the county containing the cities may enter into an agreement to form a joint planning unit by combining planning operations in order that they may carry out a joint city-county planning program. Combinations may include any combination of cities with their county or parts thereof; provided, however, that no self-excluded city in such county may form an independent planning unit.

(2) When a planning unit includes a county and a city of the first class ***or consolidated local government created pursuant to KRS Chapter 67C***, then all other cities within the county shall also be parts of the unit.

Section 135. KRS 100.127 is amended to read as follows:

(1) All agreements for joint or regional planning units shall be in writing, and shall describe the boundaries of the area involved, and shall contain all details which are necessary for the establishment and administration of the planning unit in regard to planning commission organization, preparation of plans, and aids to plan implementation. The agreement shall be adopted as an ordinance by the legislative bodies which are parties to the agreement in accordance with the procedures for the adoption of an ordinance pursuant to KRS Chapters 67, 67A, ***67C,*** 83, and 83A, and filed in the office of the county clerk of all counties which are parties to the agreement or which contain a city which is a party to the agreement. The county clerk may charge a fee of two and one-half dollars ($2.50) for the filing of the agreement. Combination under this subsection shall be permitted notwithstanding the fact that the governmental units are also involved in area planning under KRS 147.610 to 147.705. Combined planning operations shall be jointly financed, and the agreement shall state the method of proration of financial support.

(2) Agreements for planning units shall be in existence as long as at least two (2) of the original signators are operating under the combination despite the fact that other signators have withdrawn from the unit. In addition, any enlargement of a unit may be accomplished under the existing agreement by filing a copy of the agreement in the office of the county clerk of all member counties along with a statement as to when it was admitted to the unit. The clerk may charge a fee of two and one-half dollars ($2.50) for the filing.

(3) If the planning unit, or any part thereof, has adopted regulations for historical districts under KRS 100.201 and 100.203, the planning agreement may provide for the creation of a three (3) or five (5) member board to advise the zoning administrator regarding issuance of permits in such districts, the board being guided by the standards and restrictions of the community's comprehensive plan and by the historical district regulations adopted by the planning unit.

(4) Notwithstanding any other provisions of this section, when a planning unit includes a county with a consolidated local government created pursuant to KRS Chapter 67C, a planning agreement is not required.

Section 136. KRS 100.137 is amended to read as follows:

(1) ***Except in a consolidated local government,*** counties with a population of 300,000 or more inhabitants shall be a planning unit and shall have a planning commission which commission shall be composed of three (3) members, who are nonresidents of the largest city of the county, appointed by the county judge/executive of such county; three (3) members who are residents of the largest city of the county appointed by the mayor of that city; and the mayor of the largest city, or his designee; the county judge/executive, or his designee; the director of works of the largest city in the county, and the county road engineer. The county judge/executive and the mayor together shall ensure that three (3) of the six (6) appointees are citizens who have no direct financial interest in the land development and construction industry. If the commission appoints a citizen member to fill a vacancy, the commission shall ensure that the balance is maintained. All ten (10) members of the planning commission shall be required to disclose any personal or family commercial interest relevant to land use, new development supply, or new development construction. The disclosure shall be a written, signed statement of the general nature of the member's interest. The disclosure shall be filed with the commission's records under KRS 100.167 and shall be available for public inspection during regular business hours. A member shall not vote on an issue in which the member or member's family has an interest. The willful failure of a member to disclose an interest, or a member's voting on an issue in which the member or member's family has a known interest, shall subject the member to removal proceedings under KRS 100.157.

(2) ***A county with a consolidated local government created pursuant to KRS Chapter 67C shall be a planning unit and shall have a planning commission which shall include eight (8) members who are residents of the planning unit, approved by the mayor of the consolidated local government pursuant to the provisions of Section 1 of this Act. The membership of the planning commission shall also include the mayor of the consolidated local government, or his or her designee, and the director of public works of the consolidated local government or the county engineer as determined by the mayor. The mayor shall ensure that four (4) of the eight (8) appointees are citizens who have no direct financial interest in the land development and construction industry. If the commission appoints a citizen member to fill a vacancy, the commission shall ensure that the balance is maintained. All ten (10) members of the planning commission shall be required to disclose any personal or family commercial interest relevant to land use, new development supply, or new development construction. The disclosure shall be a written, signed statement of the general nature of the member's interest. The disclosure shall be filed with the commission's records pursuant to KRS 100.167 and shall be available for public inspection during regular business hours. A member shall not vote on an***

issue in which the member or member's family has an interest. The willful failure of a member to disclose an interest, or a member's voting on an issue in which the member or member's family has a known interest, shall subject the member to removal proceedings pursuant to KRS 100.157.

(3) In counties containing a city of the first class ***or a consolidated local government***, all legislation implementing or amending the plan or amended plan which affects cities of the first through fourth classes shall be enacted by such cities and all other legislation implementing the plan or amended plan shall be enacted by the fiscal court ***or, in the case of a consolidated local government, by the consolidated local government***.

(4)~~[(3)]~~ In all other counties the establishment of a planning unit is optional, but any planning unit established in other counties shall comply with the remaining provisions of this chapter.

Section 137. KRS 100.141 is amended to read as follows:

Except in counties containing a consolidated local government, the mayor of each city entitled to one or more members and the county judge/executive of each county shall appoint the members of the planning commission with the approval of their respective legislative bodies.

Section 138. KRS 100.157 is amended to read as follows:

(1) Any member of a planning commission may be removed by the appropriate appointing authority for inefficiency, neglect of duty, malfeasance, or conflict of interest. Any appointing authority who exercises the power to remove a member of the planning commission shall submit a written statement to the commission setting forth the reasons for removal, and the statement shall be read at the next meeting of the planning commission, which shall be open to the general public. The member so removed shall have the right of appeal in the Circuit Court.

(2) Notwithstanding subsection (1) of this section, and KRS 100.143, when a city of the first class and a county containing such city have in effect a compact pursuant to KRS 79.310 to 79.330, the terms of the appointed members on the commission shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, the mayor, and county judge/executive with the approval of the fiscal court, shall adjust the terms of the sitting members so that the terms of one (1) of each of their appointments expire in one (1) year, the term of one (1) of each of their appointments expire in two (2) years and the term of one (1) of each of their appointments expire in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years.

(3) Notwithstanding subsections (1) and (2) of this section, and KRS 100.143, upon the establishment of a consolidated local government in a county where a city of the first class and a county containing that city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the terms of the appointed citizen members of the planning commission shall be for three (3) years and until their successors are appointed and qualified, and the term of office of members appointed shall be staggered. Members appointed to the planning commission prior to consolidation of a city of the first class and the county containing the city pursuant to KRS Chapter 67C shall continue to serve as members of the planning commission for the consolidated local government, and shall serve the remainder of the terms for which the members were appointed and until their successors are appointed and qualified pursuant to KRS 100.137(2).

Section 139. KRS 100.201 is amended to read as follows:

(1) Except as provided in subsection ***(3)***~~[(2)]~~ of KRS 100.137, when the planning commission and legislative bodies have adopted the statement of goals and objectives, and the planning commission has additionally adopted at least the land use element for the planning unit, the various legislative bodies and fiscal courts of the cities and counties, which are members of the unit, may enact interim zoning or other kinds of growth management regulations which shall have force and effect within their respective jurisdictions for a period not to exceed twelve (12) months, during which time the planning commission shall complete the remaining elements of the comprehensive plan as prescribed by KRS 100.187. Interim regulations shall become void upon the enactment of permanent regulations as provided in subsection (2) of this section, or after twelve (12) consecutive months from the date such interim regulations are enacted, whichever occurs first.

(2) When all required elements of the comprehensive plan have been adopted in accordance with the provisions of this chapter, then the legislative bodies and fiscal courts within the planning unit may enact permanent land use regulations, including zoning and other kinds of growth management regulations to promote public health, safety, morals, and general welfare of the planning unit, to facilitate orderly and harmonious development and the visual or historical character of the unit, and to regulate the density of population and intensity of land use in order to provide for adequate light and air. In addition, land use and zoning regulations may be employed to provide for vehicle parking and loading space, as well as to facilitate fire and police protection, and to prevent the overcrowding of land, blight, danger, and congestion in the circulation of people and commodities, and the loss of life, health, or property from fire, flood, or other dangers. Land use and zoning regulations may also be employed to protect airports, highways, and other transportation facilities, public facilities, schools, public grounds, historical districts, central business districts, prime agricultural land, and other natural resources; to regulate the use of sludge from water and waste water treatment facilities in projects to improve soil quality; and to protect other specific areas of the planning unit which need special protection by the planning unit.

(3) Land use and zoning regulations may include the designation of specifically defined areas to be known as urban residential zones, in which:

(a) The majority of the structures were in use prior to November 22, 1926; and

(b) 1. The entire area embodies the distinctive characteristics of a type, period, or method of construction; or

2. The entire area represents a significant and distinguishable entity whose components may lack individual distinction.

The usage of structures within an urban residential zone may be regulated on a structure-by-structure basis, permitting a mixture of uses in the zone, including single-family and multi-family residential, retail, and service establishments, which stabilizes and protects the urban residential character of the area. The regulation of the usage of any structure shall be guided by the architecture, size, or traditional use of the building.

Section 140. KRS 100.202 is amended to read as follows:

(1) Subject to KRS ***100.137(3)***[~~100.137(2)~~], nothing in this chapter shall preclude the legislative bodies and fiscal courts of cities and counties comprising a planning unit from enacting a land use regulation which places all property within their respective jurisdictions in a single zone and addressing all land use proposals therein as conditional use permits.

(2) The text of any land use regulation enacted pursuant to this section need not comply with the provisions of KRS 100.203, and may provide that the planning commission shall assume all powers and duties of a board of adjustment as provided in KRS 100.217 to 100.263. Any appeal from an action of the planning commission in granting or denying a variance or conditional use permit shall be taken pursuant to KRS 100.347(2).

Section 141. KRS 100.205 is amended to read as follows:

Except as provided in KRS ***100.137(3)***[~~100.137(2)~~], nothing contained in this chapter shall be construed or implied as requiring the legislative bodies of cities and counties comprising the same joint planning unit to adopt identical zoning regulations. Nor shall the adoption or amendment of a zoning regulation by the legislative body of any city or county contained within a joint planning unit be made contingent on the adoption or amendment of such zoning regulation by the legislative body of any other city or county within the planning unit.

Section 142. KRS 100.208 is amended to read as follows:

(1) Any city, county, ***consolidated local government,*** or urban-county government which is part of a planning unit may provide, by ordinance, for:

(a) The voluntary transfer of the development rights permitted on one (1) parcel of land to another parcel of land;

(b) Restricting or prohibiting further development of the parcel from which development rights are transferred; and

(c) Increasing the density or intensity of development of the parcel to which such rights are transferred.

(2) The ordinance shall designate and show on the zoning map areas from which development rights may be transferred and areas to which such rights may be transferred and used for development. These zones may be designated as separate use districts or as overlaying other zoning districts.

(3) Any city within a county that adopts an ordinance providing for the transfer of development rights, may also adopt a transfer of development rights ordinance and the county and city by adoption of mutual provisions may provide for the transfer of development rights on land located in one to land located in another.

(4) "Transferable development rights" means an interest in real property that constitutes the right to develop and use property under the zoning ordinance which is made severable from the parcel to which the interest is appurtenant and transferable to another parcel of land for development and use in accordance with the zoning ordinance. Transferable development rights may be transferred by deed from the owner of the parcel from which the development rights are derived and upon the transfer shall vest in the grantee and be freely alienable. The zoning ordinance may provide for the method of transfer of these rights and may provide for the granting of easements and reasonable regulations to effect and control transfers and assure compliance with the provisions of the ordinance.

Section 143. KRS 100.209 is amended to read as follows:

(1) When a city which has adopted zoning or other land use regulations pursuant to this chapter proposes to annex unincorporated or accept the transfer of incorporated territory, it may amend its comprehensive plan and official zoning map to incorporate and establish zoning or other land use regulations for the property proposed for annexation or transfer prior to adoption of the ordinance of annexation or transfer. If the city elects to follow this procedure, the planning commission shall hold a public hearing, after the adoption of the ordinance stating the city's intention to annex or transfer property and prior to final action upon the ordinance of annexation or transfer, for the purpose of adopting the comprehensive plan amendment and making its recommendations as to the zoning or other land use regulations which will be effective for the property upon its annexation or transfer. Notice setting forth the time, date, location, and purpose of the public hearing shall be published as required by KRS Chapter 424 and shall be given to the owners of all properties within the area proposed for annexation or transfer and to adjoining property owners in accordance with KRS 100.212(2). The city legislative body shall take final action upon the planning commission's recommendations prior to adoption of the ordinance of annexation or transfer and shall include in the ordinance of annexation or transfer a map showing the zoning or other land use regulations which will be effective for the annexed or transferred property. If the city elects not to follow the procedure provided for in this section prior to the adoption of the ordinance of annexation or transfer, the newly annexed or transferred territory shall remain subject to the same land use restrictions, if any, as applied to it prior to annexation or transfer until those restrictions are changed by zoning map amendments or other regulations in accordance

with this chapter.

(2) When a city is created or when a city of the fifth or sixth class is reclassified to a city of the fourth class or higher in a county containing a city of the first class ***or a consolidated local government***, and the intent is to regulate land use within the confines of the city, the process for adopting or amending the comprehensive plan and adopting zoning or other land use regulations shall be as provided for in this chapter. Until such actions have been taken, the properties within the city shall remain subject to the land use restrictions, if any, as applied prior to the creation or reclassification of the city.

Section 144. KRS 100.211 is amended to read as follows:

(1) A proposal for a zoning map amendment may originate with the planning commission of the unit, with any fiscal court or legislative body which is a member of the unit, or with an owner of the property in question. Regardless of the origin of the proposed amendment, it shall be referred to the planning commission before adoption. The planning commission shall then hold at least one (1) public hearing after notice as required by this chapter and make findings of fact and a recommendation of approval or disapproval of the proposed map amendment to the various legislative bodies or fiscal courts involved. The findings of fact and recommendation shall include a summary of the evidence and testimony presented by the proponents and opponents of the proposed amendment. A tie vote shall be subject to further consideration by the planning commission for a period not to exceed thirty (30) days, at the end of which if the tie has not been broken, the application shall be forwarded to the fiscal court or legislative body without a recommendation of approval or disapproval. It shall take a majority of the entire legislative body or fiscal court to override the recommendation of the planning commission and it shall take a majority of the entire legislative body or fiscal court to adopt a zoning map amendment whenever the planning commission forwards the application to the fiscal court or legislative body without a recommendation of approval or disapproval due to a tie vote. Unless a majority of the entire legislative body or fiscal court votes to override the planning commission's recommendation, such recommendation shall become final and effective and if a recommendation of approval was made by the planning commission, the ordinance of the fiscal court or legislative body adopting the zoning map amendment shall be deemed to have passed by operation of law.

(2) A proposal to amend the text of any zoning regulation which must be voted upon by the legislative body or fiscal court may originate with the planning commission of the unit or with any fiscal court or legislative body which is a member of the unit. Regardless of the origin of the proposed amendment, it shall be referred to the planning commission before adoption. The planning commission shall hold at least one (1) public hearing after notice as required by KRS Chapter 424 and make a recommendation as to the text of the amendment and whether the amendment shall be approved or disapproved and shall state the reasons for its recommendation. In the case of a proposed amendment originating with a legislative body or fiscal court, the planning commission shall make its recommendation within sixty (60) days of the date of its receipt of the proposed amendment. It shall take an affirmative vote of a majority of the fiscal court or legislative body to adopt the proposed amendment.

(3) Procedures prescribed in KRS 100.207 applicable to the publication of notice also shall apply to any proposed amendment to a zoning regulation text or map; provided that:

(a) Any published notice shall include the street address of the property in question, or if one is not available or practicable due to the number of addresses involved, a geographic description sufficient to locate and identify the property, and the names of two (2) streets on either side of the property which intersect the street on which the property is located; and

(b) When the property in question is located at the intersection of two (2) streets, the notice shall designate the intersection by name of both streets rather than name the two (2) streets on either side of the property.

(4) When a property owner proposes to amend the zoning map of any planning unit other than a planning unit containing a city of the first class ***or a consolidated local government***, the provisions of KRS 100.212 shall apply in addition to the requirements and procedures prescribed in subsection (3) of this section.

(5) When a property owner proposes to amend the zoning map of any planning unit comprising any portion of a county containing a city of the first class ***or a consolidated local government***, the provisions of KRS 100.214 shall apply in addition to the requirements and procedures prescribed in subsection (3) of this section.

(6) In addition to the public notice requirements prescribed in subsection (3) of this section, when the planning commission, fiscal court, or legislative body of any planning unit originates a proposal to amend the zoning map of that unit, notice of the public hearing before the planning commission, fiscal court, or legislative body shall be given at least thirty (30) days in advance of the hearing by first class mail to an owner of every parcel of property the classification of which is proposed to be changed. Records by the property valuation administrator may be relied upon to determine the identity and address of said owner.

(7) The fiscal court or legislative body shall take final action upon a proposed zoning map amendment within ninety (90) days of the date upon which the planning commission takes its final action upon such proposal.

Section 145. KRS 100.212 is amended to read as follows:

When in any planning unit except for a planning unit containing a city of the first class ***or a consolidated local government***, a hearing is scheduled on a proposal by a property owner to amend any zoning map, the following notice shall be given in addition to any other notice required by statute, local regulation, or ordinance:

(1) Notice of the hearing shall be posted conspicuously on the property the classification of which is proposed to be changed for fourteen (14) consecutive days immediately prior to the hearing. Posting shall be as follows:

(a) The sign shall state "zoning change" and the proposed classification change in letters three (3) inches in height. The time, place, and date of hearing shall be in letters at least one (1) inch in height; and

(b) The sign shall be constructed of durable material and shall state the telephone number of the appropriate zoning commission; and

(2) Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing by first class mail, with certification by the commission secretary or other officer of the planning commission that the notice was mailed to an owner of every parcel of property adjoining the property the classification of which is proposed to be changed. It shall be the duty of the person or persons proposing the map amendment to furnish to the planning commission the names and addresses of the owners of all adjoining property. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of the owner. If the property is in condominium or cooperative forms of ownership, the person notified by mail shall be the president or chairman of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.

(3) If the property the classification of which is proposed to be changed adjoins property in a different planning unit, or property which is not part of any planning unit, notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first-class mail to certain public officials, as follows:

(a) If the adjoining property is part of a planning unit, notice shall be given to that unit's planning commission; or

(b) If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

Section 146. KRS 100.214 is amended to read as follows:

When in any planning unit containing any portion of a county containing a city of the first class ***or a consolidated local government*** a hearing is scheduled on a proposal by a property owner to amend any zoning map the following notice shall be given in addition to any other notice required by statute by local regulation or ordinance to be given:

(1) Notice of the hearing shall be posted conspicuously on the property the classification of which is proposed to be changed thirty (30) days immediately prior to the hearing. Posting shall be as follows:

(a) The sign shall state "zoning change" and the proposed classification change in letters three (3) inches in height. The time, place and date of hearing shall be in letters at least one (1) inch in height; and

(b) The sign shall be constructed of durable material and shall state the telephone number of the appropriate zoning commission;

(2) Notice of the hearing shall be given at least thirty (30) days in advance of the hearing by first class mail, with certification by the commission secretary or other officer of the planning commission that the notice was mailed, to the mayor and city clerk of any city of the fifth or sixth class so affected, to an owner of every parcel of property adjoining at any point the property the classification of which is proposed to be changed, to an owner of every parcel of property directly across the street from said property, and to an owner of every parcel of property which adjoins at any point the adjoining property or the property directly across the street from said property; provided, however, that no first-class mail notice, required by this subsection, shall be required to be given to any property owner whose property is more than five hundred (500) feet from the property which is proposed to be changed. It shall be the duty of the person or persons proposing the map amendment to furnish to the planning commission the names and addresses of the owners of all property as described in this subsection. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairman of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address;

(3) If the hearing has been scheduled for a time during normal working hours, and if, within fifteen (15) days of the scheduled date of the hearing the planning commission shall receive a petition from two hundred (200) property owners living within the planning unit requesting that the hearing be rescheduled for a time after normal working hours, then the planning commission shall reschedule the hearing for a time after normal working hours on a date no earlier than the date of the original hearing. The planning commission shall then publish notice of the new hearing time and date according to the provisions of KRS 100.211, except that notice shall occur at least seven (7) days prior to the public hearing. The sign required by subsection (1) of this section shall be changed to reflect the new hearing time and date at least seven (7) days prior to the public hearing. The persons who receive mail notice according to the provisions of subsection (2) of this section shall again be notified in the same manner of the new hearing time and date at least seven (7) days prior to the hearing. The hearing time shall not be changed more than once by the procedures of this section except in the event of intervening emergency which requires the cancellation of a hearing; and

(4) Notice by mail shall include a list of the names and addresses of each person so notified, and a description of the procedure by which those notified can petition for a change in the hearing time.

Section 147. KRS 100.217 is amended to read as follows:

(1) Before any zoning regulation may have legal effect within the planning unit, a board or boards of adjustment shall be appointed for the planning unit as stated in the agreement under which the unit operates. The agreement may provide for additional boards of adjustment with jurisdiction of a particular city or area within the planning unit. Provided, that the jurisdiction of the boards of adjustment so established shall be clearly defined as to territorial limits, that all territory within the planning unit is within the jurisdiction of some board of adjustment so established and that no territory is subject to the jurisdiction of more than one (1) board of adjustment, except as provided in KRS 100.203(5). ***In a county containing a consolidated local government where a planning agreement is not required, there shall be one (1) board of adjustment which shall be established by ordinance of the consolidated local government. Until such time as the consolidated local government establishes and appoints a board of adjustment pursuant to this subsection, the existing board of adjustment for the county shall serve as the board of adjustment for the entire planning unit.***

(2) A board of adjustment shall consist of either three (3), five (5), or seven (7) members, all of whom must be citizen members, and not more than two (2) of whom may be citizen members of the planning commission.

(3) The mayor shall be the appointing authority for cities, and the county judge/executive shall be the appointing authority for counties, subject to the approval of their respective legislative bodies. ***The mayor shall be the appointing authority for a consolidated local government pursuant to the provisions of Section 1 of this Act.***

(4) The term of office for the board of adjustment shall be four (4) years, but the term of office of members first appointed shall be staggered so that a proportionate number serve one (1), two (2), three (3), and four (4) years respectively.

(5) Vacancies on the board of adjustment shall be filled within sixty (60) days by the appropriate appointing authority. If the authority fails to act within that time, the planning commission shall fill the vacancy. When a vacancy occurs other than through expiration of the term of office, it shall be filled for the remainder of that term.

(6) All members of boards of adjustment shall, before entering upon their duties, qualify by taking the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky before any judge, county judge/executive, notary public, clerk of a court, or justice of the peace within the district or county in which he resides.

(7) Reimbursement for expenses or compensation or both may be authorized for members on a board of adjustment.

(8) Any member of a board of adjustment may be removed by the appropriate appointing authority for inefficiency, neglect of duty, malfeasance, or conflict of interest. Any appointing authority who exercises the power to remove a member of the board of adjustment shall submit a written statement to the commission setting forth the reasons for removal, and the statement shall be read at the next meeting of the board of adjustment, which shall be open to the general public. The member so removed shall have the right of appeal from the removal to the Circuit Court of the county in which he resides.

(9) Notwithstanding subsection (4) of this section, when a city of the first class and a county containing such city have in effect a compact pursuant to KRS 79.310 to 79.330, the terms of the members on the board shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, if the board is not reorganized pursuant to subsection (1) of this section, the mayor, and county judge/executive with approval of the fiscal court, shall adjust the terms of the sitting members to provide that the terms of one-third (1/3) plus one (1) of the members expire in one (1) year, the terms of one-third (1/3) of the members in two (2) years and the terms of one-third (1/3) of the members expire in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years. ***Notwithstanding subsection (4) of this section, upon the establishment of a consolidated local government in a county where a city of the first class and a county containing such city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the terms of the members on the board shall be for three (3) years and until their successors are appointed and qualified. Upon expiration of the terms of incumbent members, their successors shall be appointed to three (3) year terms which are staggered.***

(10) Each board of adjustment annually shall elect a chairman, vice chairman, and secretary and any other officers it deems necessary, and any officer shall be eligible for reelection at the expiration of his term.

Section 148. KRS 100.237 is amended to read as follows:

The board shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named in the zoning regulations which may be suitable only in specific locations in the zone only if certain conditions are met:

(1) The board may approve, modify, or deny any application for a conditional use permit. If it approves such permit it may attach necessary conditions such as time limitations, requirements that one (1) or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the board's minutes and on the conditional use permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. The board shall have power to revoke conditional use permits, or variances for noncompliance with the condition thereof. Furthermore, the board shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in personam for such cost.

(2) Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of

building, housing, and other regulations.

(3) In any case where a conditional use permit has not been exercised within the time limit set by the board, or within one (1) year, if no specific time limit has been set, such conditional use permit shall not revert to its original designation unless there has been a public hearing. "Exercised," as set forth in this section, shall mean that binding contracts for the construction of the main building or other improvement have been let; or in the absence of contracts that the main building or other improvement is under construction to a substantial degree, or that prerequisite conditions involving substantial investment under contract, in development, are completed. When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions as set forth in the permit.

(4) The administrative official shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the conditional use permit. If the landowner is not complying with all of the conditions listed on the conditional use permit, the administrative official shall report the fact in writing to the chairman of the board of adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time that it is furnished to the chairman of the board of adjustment. The board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner at least one (1) week prior to the hearing. If the board of adjustment finds that the facts alleged in the report of the administrative official are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the board of adjustment may authorize the administrative official to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.

(5) Once the board of adjustment has completed a conditional use permit and all the conditions required are of such type that they can be completely and permanently satisfied, the administrative official, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied, and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of the conditional use permit which is on file. Thereafter said use, if it continues to meet the other requirements of the regulations, will be treated as a permitted use.

(6) When an application is made for a conditional use permit for land located within or abutting any residential zoning district, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, administrative official, the mayor and city clerk of any city of the fifth or sixth class so affected, within any county containing a city of the first class ***or a consolidated local government***, an owner of every parcel of property adjoining the property to which the application applies and such other persons as the local zoning ordinance, regulations, or board of adjustment bylaws shall direct. Written notice shall be by first class mail with certification by the board's secretary or other officer that the notice was mailed. It shall be the duty of the applicant to furnish to the board the name and address of an owner of each parcel of property as described in this subsection. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.

(7) When any property within the required notification area for a public hearing upon a conditional use permit application is located within an adjoining city, county, or planning unit, notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first-class mail to certain public officials, as follows:

(a) If the adjoining property is part of a planning unit, notice shall be given to that unit's planning commission; or

(b) If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

Section 149. KRS 100.253 is amended to read as follows:

(1) The lawful use of a building or premises, existing at the time of the adoption of any zoning regulations affecting it may be continued, although such use does not conform to the provisions of such regulations, except as otherwise provided herein.

(2) The board of adjustment shall not allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at the time the regulation which makes its use nonconforming was adopted, nor shall the board permit a change from one nonconforming use to another unless the new nonconforming use is in the same or a more restrictive classification, provided, however, the board of adjustment may grant approval, effective to maintain nonconforming-use status, for enlargements or extensions, made or to be made, of the facilities of a nonconforming use, where the use consists of the presenting of a major public attraction or attractions, such as a sports event or events, which has been presented at the same site over such period of years and has such attributes and public acceptance as to have attained international prestige and to have achieved the status of a public tradition, contributing substantially to the economy of the community and state, of which prestige and status the site is an essential element, and where the enlargement or extension was or is designed to maintain the prestige and status by meeting the increasing demands of participants and patrons.

(3) Any use which has existed illegally and does not conform to the provisions of the zoning regulations, and has been in continuous existence for a period of ten (10) years, and which has not been the subject of any adverse order or other adverse action by the administrative official during said period, shall be deemed a nonconforming use. Thereafter, such use shall be governed by the provisions of subsection (2) of this section.

(4) The provisions of subsection (3) of this section shall not apply to counties containing a city of the first class, a city of the second class, ***a consolidated local government,*** or ***an*** urban-county government.

Section 150. KRS 100.277 is amended to read as follows:

(1) All subdivision of land shall receive commission approval.

(2) No person or his agent shall subdivide any land, before securing the approval of the planning commission of a plat designating the areas to be subdivided, and no plat of a subdivision of land within the planning unit jurisdiction shall be recorded by the county clerk until the plat has been approved by the commission and the approval entered thereon in writing by the chairman, secretary, or other duly authorized officer of the commission.

(3) No person owning land composing a subdivision, or his agent, shall transfer or sell any lot or parcel of land located within a subdivision by reference to, or by exhibition, or by any other use of a plat of such subdivision, before such plat has received final approval of the planning commission and has been recorded. Any such instrument of transfer or sale shall be void and shall not be subject to be recorded unless the subdivision plat subsequently receives final approval of the planning commission, but all rights of such purchaser to damages are hereby preserved. The description of such lot or parcel by metes and bounds in any instrument of transfer or other document used in the process of selling or transferring same shall not exempt the person attempting to transfer from penalties provided or deprive the purchaser of any rights or remedies he may otherwise have. Provided, however, any person, or his agent, may agree to sell any lot or parcel of land located within a subdivision by reference to an unapproved or unrecorded plat or by reference to a metes and bounds description of such lot and any such executory contract of sale or option to purchase may be recorded and shall be valid and enforceable so long as the subdivision of land contemplated therein is lawful and the subdivision plat subsequently receives final approval of the planning commission.

(4) Any street or other public ground which has been dedicated shall be accepted for maintenance by the legislative body after it has received final plat approval by the planning commission. Any street that has been built in accordance with specific standards set forth in subdivision regulations or by ordinance shall be, by operation of law, automatically accepted for maintenance by a legislative body forty-five (45) days after inspection and final approval.

(5) Any instrument of transfer, sale or contract that would otherwise have been void under this section and under any of its subsections previously, is deemed not to have been void, but merely not subject to be recorded unless the subdivision plat subsequently receives final approval of the planning commission. This subsection shall not apply to instruments of transactions affecting property in counties containing cities of the first class***, in consolidated local governments created pursuant to KRS Chapter 67C,*** or in urban-counties created pursuant to KRS Chapter 67A.

Section 151. KRS 100.324 is amended to read as follows:

(1) All other provisions of this chapter to the contrary notwithstanding, public utilities operating under the jurisdiction of the Public Service Commission, except as specified in KRS 100.987 and subsection (5) of this section, or the Department of Vehicle Regulation or Federal Power Commission, any municipally-owned electric system, and common carriers by rail shall not be required to receive the approval of the planning unit for the location or relocation of any of their service facilities. Service facilities include all facilities of such utilities and common carriers by rail other than office space, garage space, and warehouse space and include office space, garage space, and warehouse space when such space is incidental to a service facility. The Public Service Commission and the Department of Vehicle Regulation shall give notice to the planning commission of any planning unit of any hearing which affects locations or relocations of service facilities within that planning unit's jurisdiction.

(2) The nonservice facilities excluded in subsection (1) of this section must be in accordance with the zoning regulations.

(3) Upon the request of the planning commission, the public utilities referred to in this section shall provide the planning commission of the planning unit affected with information concerning service facilities which have been located on and relocated on private property.

(4) Any proposal for acquisition or disposition of land for public facilities, or changes in the character, location, or extent of structures or land for public facilities, excluding state and federal highways and public utilities and common carriers by rail mentioned in this section, shall be referred to the commission to be reviewed in light of its agreement with the comprehensive plan, and the commission shall, within sixty (60) days from the date of its receipt, review the project and advise the referring body whether the project is in accordance with the comprehensive plan. If it disapproves of the project, it shall state the reasons for disapproval in writing and make suggestions for changes which will, in its opinion, better accomplish the objectives of the comprehensive plan. No permit required for construction or occupancy of such public facilities shall be issued until the expiration of the sixty (60) day period or until the planning commission issues its report, whichever occurs first.

(5) Every utility which proposes to construct an antenna tower for cellular telecommunications services or personal communications services within a county containing a city of the first class ***or a consolidated local government*** shall

submit the proposal to the planning commission of the affected planning unit. The planning commission shall review the proposal in light of its agreement with the comprehensive plan and locally-adopted zoning regulations and shall, within sixty (60) days from the date the proposal is submitted, make its final decision and advise the utility in writing whether the proposed construction is in accordance with the comprehensive plan and locally-adopted zoning regulations. If the planning commission fails to issue a final decision within sixty (60) days, it is presumed to have approved the proposal, and may not later appeal a decision of the Public Service Commission under KRS 278.650(3). If the planning commission disapproves of the proposed construction, it shall state the reasons for disapproval in its written decision and may make suggestions which, in its opinion, better accomplish the objectives of the comprehensive plan and the locally-adopted zoning regulations. No permit for construction of a cellular or personal communications services antenna tower, including any certificate of convenience and necessity required to be issued by the Kentucky Public Service Commission, shall be issued until the expiration of the sixty (60) day period or until the planning commission issues its final decision on the utility proposal, whichever occurs first.

Section 152. KRS 100.331 is amended to read as follows:

Except in counties containing a consolidated local government, fiscal courts are granted all the legislative powers granted to all cities for purposes of adopting regulations and legislation proposed under this chapter.

Section 153. KRS 100.347 is amended to read as follows:

(1) Any person or entity claiming to be injured or aggrieved by any final action of the board of adjustment shall appeal from the action to the Circuit Court of the county in which the property, which is the subject of the action of the board of adjustment, lies. Such appeal shall be taken within thirty (30) days after the final action of the board. All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. The board of adjustment shall be a party in any such appeal filed in the Circuit Court.

(2) Any person or entity claiming to be injured or aggrieved by any final action of the planning commission shall appeal from the final action to the Circuit Court of the county in which the property, which is the subject of the commission's action, lies. Such appeal shall be taken within thirty (30) days after such action. Such action shall not include the commission's recommendations made to other governmental bodies. All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. Provided, however, any appeal of a planning commission action granting or denying a variance or conditional use permit authorized by KRS 100.203(5) shall be taken pursuant to this subsection. In such case, the thirty (30) day period for taking an appeal begins to run at the time the legislative body grants or denies the map amendment for the same development. The planning commission shall be a party in any such appeal filed in the Circuit Court.

(3) Any person or entity claiming to be injured or aggrieved by any final action of the legislative body of any city, county***,*** ***consolidated local government,*** or urban-county government, relating to a map amendment shall appeal from the action to the Circuit Court of the county in which the property, which is the subject of the map amendment, lies. Such appeal shall be taken within thirty (30) days after the final action of the legislative body. All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. The legislative body shall be a party in any such appeal filed in the Circuit Court.

(4) The owner of the subject property and applicants who initiated the proceeding shall be made parties to the appeal. Other persons speaking at the public hearing are not required to be made parties to such appeal.

(5) For purposes of this chapter, final action shall be deemed to have occurred on the calendar date when the vote is taken to approve or disapprove the matter pending before the body.

Section 154. KRS 100.401 is amended to read as follows:

It is the intent of KRS 100.401 to 100.419 to strengthen the enforcement of binding elements which have been approved as part of a land use development plan in a county containing a city of the first class ***or consolidated local government***. This is intended to be done by extending to a planning commission in counties containing a city of the first class ***or consolidated local government*** the authority to issue remedial orders and impose civil fines in order to provide an equitable, expeditious, effective, and inexpensive method of ensuring compliance with approved land use plans as they apply to binding element agreements. KRS 100.401 to 100.419 is intended and shall be construed to provide an additional or supplemental means of obtaining compliance with local zoning ordinances and nothing contained in KRS 100.401 to 100.419 shall prohibit the enforcement of local zoning ordinances by any other means authorized by law.

Section 155. KRS 100.403 is amended to read as follows:

As used in KRS 100.401 to 100.419, unless the context otherwise requires:

(1) "Land use enforcement officer" in a county containing a city of the first class ***or consolidated local government*** means ***an***[~~a zoning enforcement~~] officer ***authorized***[~~employed~~] by a planning commission ***to enforce binding elements***.

(2) "Land use ordinance" in a county containing a city of the first class ***or consolidated local government*** means an official action of a local government body which is a regulation of a general and permanent nature relating to the use and development of land within the jurisdictional boundary of the planning commission. It is enforceable as a local law and shall include any provision of a code of ordinances adopted by a local government which embodies all or part of an ordinance.

(3) "Local government" means a county containing a city of the first class ***or consolidated local government*** and all cities of the first through fourth classes within ***the***~~[that]~~ county.

(4) "Binding element" in a county containing a city of the first class ***or consolidated local government*** means a binding requirement, provision, restriction, or condition imposed by a planning commission or its designee, or a promise or agreement made by an applicant in writing in connection with the approval of a land use development plan or subdivision plan.

Section 156. KRS 100.405 is amended to read as follows:

(1) The planning commission in counties containing a city of the first class ***or a consolidated local government*** may issue remedial orders and impose civil fines as a method of enforcing a binding element when a violation of that binding element has been classified as a civil offense in accordance with this section.

(2) Subject to the limitations set forth in subsections (1) and (3) of this section, if a local government elects to enforce a binding element as a civil offense, it shall do so by ordinance, which shall provide:

(a) That a violation of the binding element is a civil offense; and

(b) A maximum civil fine that may be imposed for each violation of a binding element.

(3) No local government shall classify the violation of a binding element as a civil offense if the violation would also constitute an offense under any provision of the Kentucky Revised Statutes, including specifically, and without limitation, any provision of the Kentucky Penal Code and any moving motor vehicle offense.

Section 157. KRS 100.985 is amended to read as follows:

In addition to the definitions set forth in KRS 100.111, the following definitions shall apply to KRS 100.985 to 100.987:

(1) "Cellular antenna tower" means a tower constructed for, or an existing facility that has been adapted for, the location of transmission or related equipment to be used in the provision of cellular telecommunications services or personal communications services;

(2) "Cellular telecommunications service" means a retail telecommunications service that uses radio signals transmitted through cell sites and mobile switching stations;

(3) "Co-location" means locating two (2) or more transmission antennas or related equipment on the same cellular antenna tower;

(4) "Personal communication service" has the meaning as defined in 47 U.S.C. sec. 332(c);

(5) "Uniform application" means an application for a certificate of convenience and necessity issued under KRS 278.020 submitted by a utility to the Public Service Commission to construct an antenna tower for cellular telecommunications services of personal communications service in a jurisdiction, that has adopted planning and zoning regulations in accordance with this chapter, except for any county that contains a city of the first class ***or a consolidated local government***; and

(6) "Utility" has the meaning as defined in KRS 278.010(3).

Section 158. KRS 100.987 is amended to read as follows:

(1) A planning unit as defined in KRS 100.111 and legislative body or fiscal court that has adopted planning and zoning regulations, except for a county that contains a city of the first class ***or a consolidated local government*** as provided under KRS 278.650, may plan for and regulate the siting of cellular antenna towers in accordance with locally adopted planning or zoning regulations in this chapter by officially registering with the Public Service Commission. The registration shall be in the form of an official resolution adopted by the local planning commission. Nothing in this section shall require a planning unit and legislative body or fiscal court to plan for and regulate the siting of cellular antenna towers.

(2) Every utility or a company that is engaged in the business of providing the required infrastructure to a utility that proposes to construct an antenna tower for cellular telecommunications services or personal communications services within the jurisdiction of a planning unit that has adopted planning and zoning regulations in accordance with this chapter, except for a county that contains a city of the first class ***or a consolidated local government*** as provided under KRS 278.650, and that has officially registered with the Public Service Commission shall:

(a) Submit a copy of the utility's completed uniform application to the planning commission of the affected planning unit to construct an antenna tower for cellular or personal telecommunications services within five (5) days of applying to the Public Service Commission for a certificate of necessity and convenience as required by KRS 278.020(1). The uniform application shall include a grid map that shows the location of all existing cellular antenna towers and that indicates the general position of proposed construction sites for new cellular antenna towers within an area that includes:

1. All of the planning unit's jurisdiction; and

2. A one-half (1/2) mile area outside of the boundaries of the planning unit's jurisdiction, if that area contains either existing or proposed construction sites for cellular antenna towers;

(b) Include in any contract with an owner of property upon which a cellular antenna tower is to be constructed, a provision that specifies, in the case of abandonment, a method that the utility will follow in dismantling and removing a cellular antenna tower including a timetable for removal; and

(c) Comply with any local ordinances concerning land use, subject to the limitations imposed by 47 U.S.C. sec. 332(c), KRS 278.030, 278.040, and 278.280.

(3) Commencing from the time that a utility files a uniform application with the Public Service Commission, all information contained in the uniform application and any updates, except for information that specifically identifies the proposed location of the cellular antenna tower then being reviewed by the applying utility, shall be deemed confidential and proprietary within the meaning of KRS 61.878. The Public Service Commission and the local planning commission shall deny any public request for the inspection of this information, whether submitted under Kentucky's Open Records Act or otherwise, except when ordered to release the information by a court of competent jurisdiction. Any person violating this subsection shall be guilty of official misconduct in the second degree as provided under KRS 522.030.

(4) After receiving the uniform application to construct a cellular antenna tower, the planning commission shall:

(a) Review the uniform application in light of its agreement with the comprehensive plan and locally adopted zoning regulations;

(b) Make its final decision to approve or disapprove the uniform application; and

(c) Advise the utility and the Public Service Commission in writing of its final decision within sixty (60) days commencing from the date that the uniform application is received by the planning commission or within a date certain specified in a written agreement between the local planning commission and the utility. If the planning commission fails to issue a final decision within sixty (60) days and if there is no written agreement between the local planning commission and the utility to a specific date for the planning commission to issue a decision, it is presumed that the local planning commission has approved the utility's uniform application.

(5) (a) If the planning commission disapproves of the proposed construction, it shall state the reasons for disapproval in its written decision and may make suggestions which, in its opinion, better accomplish the objectives of the comprehensive plan and the locally adopted zoning regulations. No permit for construction of a cellular or personal communications services antenna tower, including any certificate of convenience and necessity required to be issued by the Kentucky Public Service Commission, shall be issued until the planning commission approves the uniform application or the sixty (60) day time period has expired, whichever occurs first. If a planning commission rejects the uniform application to construct an antenna tower, the Public Service Commission may override the decision of the planning commission and issue a certificate of convenience and necessity for construction of the cellular or personal communications services antenna tower, if it determines that there is no acceptable alternate site and that the public convenience and necessity requires the proposed construction.

(b) Any party, other than the applying utility, that is aggrieved by the final action of a planning commission under this section, may intervene in the action to the Public Service Commission, but this appeal shall not automatically postpone action by the Public Service Commission.

(6) The planning commission may require the utility to make a reasonable attempt to co-locate additional transmitting or related equipment on any new or existing towers, if there is available space on the tower and the co-location does not interfere with the structural integrity of the tower and does not require the owner of the tower to make substantial alterations to the tower. A planning commission may provide the location of existing cellular antenna towers on which the commission deems the applying utility can successfully co-locate its transmitting and related equipment. If the local planning commission requires the utility to attempt co-location, the utility shall provide the local planning unit with a statement indicating that the utility has:

(a) Successfully attempted to co-locate on towers designed to host multiple wireless service providers' facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the utility's facilities, and that identifies the location of the tower which the applying utility will co-locate its transmission and related facilities on; or

(b) Unsuccessfully attempted to co-locate on towers designed to host multiple wireless service provider's facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the utility's facilities and that:

1. Identifies the location of the towers which the applying utility attempted to co-locate on; and

2. Lists the reasons why the co-location was unsuccessful in each instance.

(7) The local planning commission may deny a uniform application to construct a cellular antenna tower based on a utility's unwillingness to attempt to co-locate additional transmitting or related equipment on any new or existing towers.

(8) In the event of co-location, a utility shall be considered the primary user of the tower, if the utility is the owner of the antenna tower and if no other agreement exists that prescribes an alternate arrangement between the parties for use of the tower. Any other entity that co-locates transmission or related facilities on a cellular antenna tower shall do so in a manner that does not impose additional costs or operating restrictions on the primary user.

Section 159. KRS 108.060 is amended to read as follows:

A civil service system for employees of the district may be established by the council in accordance with the plan outlined for cities of the first class ***or a consolidated local government*** under KRS 90.110 to 90.230.

Section 160. KRS 132.012 is amended to read as follows:

As used in this section and in KRS 91.285, unless the context otherwise requires:

(1) "Abandoned urban property" means any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly developed urban area which has been vacant or unimproved for a period of at least one (1) year and which:

(a) Because it is dilapidated, unsanitary, unsafe, vermin infested, or otherwise dangerous to the safety of persons, it is unfit for its intended use; or

(b) By reason of neglect or lack of maintenance has become a place for the accumulation of trash and debris, or has become infested with rodents or other vermin; or

(c) Has been tax delinquent for a period of at least three (3) years.

(2) For purposes of local taxation in cities of the first class ***or consolidated local governments***, there shall be a classification of real property known as abandoned urban property. The legislative body of a city of the first class ***or consolidated local government*** may levy a rate of taxation on abandoned urban property higher than the prevailing rate of taxation on other real property in the city ***or consolidated local government***. The limitation upon tax rates established by KRS 132.027 shall not apply to the rate of taxation on abandoned urban property.

Section 161. KRS 132.015 is amended to read as follows:

The property valuation administrator shall maintain lists of all real property additions and real property deletions to the property tax rolls for the county***, consolidated local government,*** or urban-county, and each city, school district, and special district in the county***, consolidated local government,*** or urban-county, and shall certify such lists to the Revenue Cabinet, the city clerk of each city in the county which elects to use the annual county assessment as provided for in KRS 132.285, the treasurer or chief officer of each special district in the county, and the chief administrative officer of the urban-county ***and the consolidated local government*** at the time he files his recapitulation of property assessed on the tax roll with the Revenue Cabinet.

Section 162. KRS 132.017 is amended to read as follows:

(1) (a) That portion of a tax rate levied by an ordinance, order, resolution, or motion of a county fiscal court, district board of education or legislative body of a city, urban-county government***, consolidated local government,*** or other taxing district subject to recall as provided for in KRS 68.245, 132.023, 132.027 and 160.470, shall go into effect forty-five (45) days after its passage. If during the forty-five (45) days next following the passage of the order, resolution, or motion, a petition signed by a number of registered and qualified voters equal to ten percent (10%) of the voters voting in the last presidential election is presented to the county clerk or his authorized deputy protesting against passage of the ordinance, order, resolution, or motion, the ordinance, order, resolution, or motion shall be suspended from going into effect until after the election referred to in subsection (2) of this section. When the petition is presented to the county clerk or his authorized deputy, the officer shall immediately notify the presiding officer of the appropriate fiscal court, district board of education,[~~ or~~] legislative body of a city***, consolidated local government,***[~~ or~~] urban-county government, or other taxing district, as the case may be. Each sheet of the petition shall contain the names, residence addresses, and Social Security numbers or dates of birth of voters in but one (1) voting precinct, and each sheet shall state the name, number, or designation of the precinct and, where applicable, the name, designation, or number of the district or ward wherein the precinct is situated. The county clerk shall make the conclusive determination of whether the petition contains enough signatures of qualified voters to suspend the effect of the order or resolution.

(b) The county fiscal court, district board of education, or legislative body of a city, urban-county government, ***consolidated local government,*** or other taxing district may cause the cancellation of the election by reconsidering the ordinance, order, resolution, or motion and amending the ordinance, order, resolution, or motion to levy a tax rate which will produce no more revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 from real property. The action by the county fiscal court, district board of education, legislative body of a city, urban-county government, ***consolidated local government,*** or other taxing district shall be valid only if taken within fifteen (15) days following the date of the presentation of the petition.

(2) (a) If an election is necessary under the provisions of subsection (1) of this section, the county fiscal court,[~~ or~~] legislative body of a city, urban-county government, ***consolidated local government,*** or other taxing district shall cause to be submitted to the voters of the county, district, ***consolidated local government,*** or urban-county at the next regular election, the question as to whether the property tax rate shall be levied. The question shall be submitted to the county clerk not later than the second Tuesday in August preceding the regular election. The question shall be so framed that the voter may by his vote answer "for" or "against." If a majority of the votes cast upon the question oppose its passage, the order, resolution, or motion shall not go into effect. If a majority of the votes cast upon the question favor its passage, the order, resolution, or motion shall go into effect.

(b) If an election is necessary for a school district under the provisions of subsection (1) of this section, the district board of education may cause to be submitted to the voters of the district in a called common school election not less than twenty (20) days nor more than thirty (30) days from the date the signatures on the petition are validated by the county clerk, or at the next regular election, at the option of the district board of education, the question as to whether the property tax rate shall be levied. If the election is held in conjunction with a regular election, the question shall be submitted to the county clerk not later than the second Tuesday in August preceding the regular election. The question shall be so framed that the voter may by his vote answer "for" or "against." If a majority of the votes cast upon the question oppose its passage, the order, resolution, or motion shall not go into effect, and the property tax rate which will produce four percent (4%) more revenues from real property, exclusive of revenue from new property as defined in KRS 132.010, than the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be levied without further approval by the county fiscal court, district board of education, or legislative body of a city, ***consolidated local government,*** urban-county government, or other taxing district, as the case may be. If a majority of the votes cast upon the question favor its passage, the order, resolution, or motion shall go into effect. The cost of a called common school election shall be borne by the school district causing the election to be held.

(3) Notwithstanding any statutory provision to the contrary, if a city, county, school district, or other taxing district has not established a final tax rate as of September 15, due to the recall provisions of this section, KRS 68.245, 132.027, or 160.470, regular tax bills shall be prepared as required in KRS 133.220 for all districts having a tax rate established by that date; and a second set of bills shall be prepared and collected in the regular manner, according to the provisions of KRS Chapter 132, upon establishment of final tax rates by the remaining districts.

(4) If a second billing is necessary, the collection period shall be extended to conform with the second billing date.

(5) All costs associated with the second billing shall be paid by the taxing district or districts requiring the second billing.

Section 163. KRS 132.018 is amended to read as follows:

(1) If the tax rate applicable to real property levied by a county fiscal court, district board of education, or legislative body of a city, ***consolidated local government,*** urban-county government, or other taxing district is reduced as a result of reconsideration by the county fiscal court, district board of education, or legislative body of a city, ***consolidated local government,*** urban-county government, or other taxing district under the provisions of KRS 132.017(1)(b), the tax rate applicable to personal property levied under the provisions of KRS 68.248(1), 132.024(1), 132.029(1), and 160.473(1) shall be reduced by the respective county fiscal court, district board of education, or legislative body of a city, ***consolidated local government,*** urban-county government, or other taxing district to an amount which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property resulting from the reduced tax rate applicable to real property.

(2) If the tax rate applicable to real property levied by a county fiscal court, district board of education, or legislative body of a city, ***consolidated local government,*** urban-county government, or other taxing district is reduced, under the provisions of KRS 132.017(2)(b), as a result of a majority of votes cast in an election being opposed to such a rate, the tax rate applicable to personal property levied by the respective county fiscal court, district board of education, or legislative body of a city, ***consolidated local government,*** urban-county government, or other taxing district shall be reduced, without further action by the levying body, to an amount which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property resulting from the reduced tax rate applicable to real property.

Section 164. KRS 132.023 is amended to read as follows:

(1) No taxing district, other than the state, counties, school districts, cities, ***consolidated local governments,*** and urban-county governments, shall levy a tax rate which exceeds the compensating tax rate defined in KRS 132.010, until the taxing district has complied with the provisions of subsection (2) of this section.

(2) (a) A taxing district, other than the state, counties, school districts, cities, ***consolidated local governments,*** and urban-county governments, proposing to levy a tax rate which exceeds the compensating tax rate defined in KRS 132.010, shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The taxing district shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;
2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;
3. The compensating tax rate and the revenue expected from it;
4. The revenue expected from new property and personal property;
5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;

6. A time and place for the public hearing which shall be held not less than seven (7) days, nor more than ten (10) days, after the day that the second advertisement is published;

7. The purpose of the hearing; and

8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained therein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property in the taxing district, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The taxing district may set reasonable time limits for testimony.

(3) (a) That portion of a tax rate levied by an action of a tax district, other than the state, counties, school districts, cities, ***consolidated local governments,*** and urban-county governments which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 shall be subject to a recall vote or reconsideration by the taxing district, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The taxing district, other than the state, counties, school districts, cities, ***consolidated local governments,*** and urban-county governments shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a tax rate which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the taxing district has adopted a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and

3. The name, address, and telephone number of the county clerk of the county in which the taxing district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

Section 165. KRS 132.275 is amended to read as follows:

Each gas, water, electric light and telephone company operating in a county containing a city of the first class ***or consolidated local government*** shall furnish to the property valuation administrator a list showing the names and addresses of all persons, firms, or corporations receiving service from such utilities, and thereafter on every Monday, said utility companies shall furnish to said property valuation administrator a report containing the names of all persons, firms, or corporations who have, during the week immediately preceding, ordered gas, water, electric light or telephone service to be installed, removed or discontinued, with the addresses at which the services were ordered to be installed, removed or discontinued. Such information shall be treated as confidential and shall be used by said property valuation administrator only for the purpose of making accurate records; Provided, however, That said property valuation administrator shall permit the city assessor of said city of the first class ***or consolidated local government*** and any other taxing bodies of the various governments to examine said records for official purposes only, and said units of government shall treat said information as confidential.

Section 166. KRS 132.400 is amended to read as follows:

Before entering upon the duties of office, the property valuation administrator shall execute a bond conditioned upon the faithful performance of the duties of the office with a surety to be approved by the Revenue Cabinet. In counties containing a city of the first class ***or consolidated local government***, the bond shall be in the sum of one hundred thousand dollars ($100,000); in counties containing a city of the second class, fifty thousand dollars ($50,000); in all other counties, twenty thousand dollars ($20,000).

Section 167. KRS 132.590 is amended to read as follows:

(1) The compensation of the property valuation administrator shall be based on the schedule contained in subsection (2) of this section as modified by subsection (3) of this section. The compensation of the property valuation administrator shall be calculated by the Revenue Cabinet annually. Should a property valuation administrator for any reason vacate the office in any year during his term of office, he shall be paid only for the calendar days actually served during the year.

(2) The salary schedule for property valuation administrators provides for nine (9) levels of salary based upon the population of the county in the prior year as determined by the United States Department of Commerce, Bureau of the Census annual estimates. To implement the salary schedule, the cabinet shall, by November 1 of each year, certify for each county the population group applicable to each county based on the most recent estimates of the United States Department of Commerce, Bureau of the Census. The salary schedule provides four (4) steps for yearly increments within each population group. Property valuation administrators shall be paid according to the first step within their population group for the first

year or portion thereof they serve in office. Thereafter, each property valuation administrator, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. If the county population as certified by the cabinet increases to a new group level, the property valuation administrator's salary shall be computed from the new group level at the beginning of the next year. A change in group level shall have no affect on the annual change in step. Prior to assuming office, any person who has previously served as a property valuation administrator must certify to the Revenue Cabinet the total number of years, not to exceed four (4) years, that the person has previously served in the office. The cabinet shall place the person in the proper step based upon a formula of one (1) incremental step per full calendar year of service:

SALARY SCHEDULE

County Population by Group	Steps and Salary for Property Valuation Administrators			
Group I	Step 1	Step 2	Step 3	Step 4
0-4,999	$45,387	$46,762	$48,137	$49,513
Group II				
5,000-9,999	49,513	50,888	52,263	53,639
Group III				
10,000-19,999	53,639	55,014	56,389	57,765
Group IV				
20,000-29,999	55,702	57,765	59,828	61,891
Group V				
30,000-44,999	59,828	61,891	63,954	66,017
Group VI				
45,000-59,999	61,891	64,641	67,392	70,143
Group VII				
60,000-89,999	66,017	68,768	71,518	74,269
Group VIII				
90,000-499,999	68,080	71,518	74,957	78,395
Group IX				
500,000 and up	72,206	75,644	79,083	82,521

(3) (a) For calendar year 2000, the salary schedule in subsection (2) of this section shall be increased by the amount of increase in the annual consumer price index as published by the United States Department of Commerce for the year ended December 31, 1999. This salary adjustment shall take effect on July 14, 2000, and shall not be retroactive to the preceding January 1.

(b) For each calendar year beginning after December 31, 2000, upon publication of the annual consumer price index by the United States Department of Commerce, the annual rate of salary for the property valuation administrator shall be determined by applying the increase in the consumer price index to the salary in effect for the previous year. This salary determination shall be retroactive to the preceding January 1.

(c) In addition to the step increases based on service in office, each property valuation administrator shall be paid an increase of six hundred eighty-seven dollars and sixty-seven cents ($687.67) for each forty (40) hour training unit successfully completed. This amount shall be increased by the consumer price index adjustments prescribed in paragraphs (a) and (b) of this subsection. Each training unit shall be approved and certified by the Kentucky Revenue Cabinet. Each unit shall be available to property valuation administrators in each office based on continuing service in that office.

(4) Notwithstanding any provision contained in this section, no property valuation administrator holding office on July 14, 2000, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on July 14, 2000.

(5) Deputy property valuation administrators and other authorized personnel may be advanced one (1) step in grade upon completion of twelve (12) months' continuous service. The Revenue Cabinet may make grade classification changes corresponding to any approved for cabinet employees in comparable positions, so long as the changes do not violate the integrity of the classification system. Subject to availability of funds, the cabinet may extend cost-of-living increases approved for cabinet employees to deputy property valuation administrators and other authorized personnel, by advancement in grade.

(6) Beginning with the 1990-1992 biennium, the Revenue Cabinet shall prepare a biennial budget request for the staffing of property valuation administrators' offices. An equitable allocation of employee positions to each property valuation

administrator's office in the state shall be made on the basis of comparative assessment work units. Assessment work units shall be determined from the most current objective information available from the United States Bureau of the Census and other similar sources of unbiased information. Beginning with the 1996-1998 biennium, assessment work units shall be based on parcel count per employee. The total sum allowed by the state to any property valuation administrator's office as compensation for deputies, other authorized personnel, and for other authorized expenditures shall not exceed the amount fixed by the Revenue Cabinet. However, each property valuation administrator's office shall be allowed as a minimum such funds that are required to meet the federal minimum wage requirements for two (2) full-time deputies.

(7) Beginning with the 1990-1992 biennium each property valuation administrator shall submit by June 1 of each year for the following fiscal year to the Revenue Cabinet a budget request for his office which shall be based upon the number of employee positions allocated to his office under subsection (6) of this section and upon the county and city funds available to his office and show the amount to be expended for deputy and other authorized personnel including employer's share of FICA and state retirement, and other authorized expenses of the office. The Revenue Cabinet shall return to each property valuation administrator, no later than July 1, an approved budget for the fiscal year.

(8) Each property valuation administrator may appoint any persons approved by the Revenue Cabinet to assist him in the discharge of his duties. Each deputy shall be more than twenty-one (21) years of age and may be removed at the pleasure of the property valuation administrator. The salaries of deputies and other authorized personnel shall be fixed by the property valuation administrator in accordance with the grade classification system established by the Revenue Cabinet and shall be subject to the approval of the Revenue Cabinet. The Personnel Cabinet shall provide advice and technical assistance to the Revenue Cabinet in the revision and updating of the personnel classification system, which shall be equitable in all respects to the personnel classification systems maintained for other state employees. Any deputy property valuation administrator employed or promoted to a higher position may be examined by the Revenue Cabinet in accordance with standards of the Personnel Cabinet, for the position to which he is being appointed or promoted. No state funds available to any property valuation administrator's office as compensation for deputies and other authorized personnel or for other authorized expenditures shall be paid without authorization of the Revenue Cabinet prior to the employment by the property valuation administrator of deputies or other authorized personnel or the incurring of other authorized expenditures.

(9) Each county fiscal court shall annually appropriate and pay each fiscal year to the office of the property valuation administrator as its cost for use of the assessment, as required by KRS 132.280, an amount determined as follows:

Assessment Subject to County Tax of:		
At Least	But Less Than	Amount
----	$100,000,000	$0.005 for each $100 of the first $50,000,000 and $0.002 for each $100 over $50,000,000.
$100,000,000	150,000,000	$0.004 for each $100 of the first $100,000,000 and $0.002 for each $100 over $100,000,000.
150,000,000	300,000,000	$0.004 for each $100 of the first $150,000,000 and $0.003 for each $100 over $150,000,000.
300,000,000	----	$0.004 for each $100.

(10) The total sum to be paid by the fiscal court to any property valuation administrator's office under the provisions of subsection (9) of this section shall not exceed the limits set forth in the following table:

Assessed Value of Property Subject to County Tax of:		
At Least	But Less Than	Limit
----	$700,000,000	25,000
$700,000,000	1,000,000,000	35,000
1,000,000,000	2,000,000,000	50,000
2,000,000,000	2,500,000,000	75,000
2,500,000,000	5,000,000,000	100,000
5,000,000,000	-----	175,000

This allowance shall be based on the assessment as of the previous January 1 and shall be used for deputy and other personnel allowance, supplies, maps and equipment, travel allowance for the property valuation administrator and his deputies and other authorized personnel, and other authorized expenses of the office.

(11) Annually, after appropriation by the county of funds required of it by subsection (9) of this section, and no later than August 1, the property valuation administrator shall file a claim with the county for that amount of the appropriation specified in his approved budget for compensation of deputies and assistants, including employer's shares of FICA and state retirement, for the fiscal year. The amount so requested shall be paid by the county into the State Treasury by September 1, or paid to the property valuation administrator and be submitted to the State Treasury by September 1. These funds shall be expended by the Revenue Cabinet only for compensation of approved deputies and assistants and the employer's share of FICA and state retirement in the appropriating county. Any funds paid into the State Treasury in accordance with this provision but unexpended by the close of the fiscal year for which they were appropriated shall be returned to the county from which they were received.

(12) After submission to the State Treasury or to the property valuation administrator of the county funds budgeted for personnel compensation under subsection (11) of this section, the fiscal court shall pay the remainder of the county appropriation to the office of the property valuation administrator on a quarterly basis. Four (4) equal payments shall be made on or before September 1, December 1, March 1, and June 1 respectively. Any unexpended county funds at the close of each fiscal year shall be retained by the property valuation administrator, except as provided in KRS 132.601(2). During county election years the property valuation administrator shall not expend in excess of forty percent (40%) of the allowances available to his office from county funds during the first five (5) months of the fiscal year in which the general election is held.

(13) The provisions of this section shall apply to urban-county governments ***and consolidated local governments***. In an urban-county government ***and a consolidated local government***, all the rights and obligations conferred on fiscal courts ***or consolidated local governments*** by the provisions of this section shall be exercised by the urban-county government ***or consolidated local government***.

(14) When an urban-county form of government is established through merger of existing city and county governments as provided in KRS Chapter 67A ***or when a consolidated local government is established through merger of existing city and county governments as provided by KRS Chapter 67C***, the annual county assessment shall be presumed to have been adopted as if the city had exercised the option to adopt as provided in KRS 132.285, and the annual amount to be appropriated to the property valuation administrator's office shall be the combined amount that is required of the county under this section and that required of the city under KRS 132.285, except that the total shall not exceed one hundred thousand dollars ($100,000) for any urban-county government ***or consolidated local government*** with an assessment subject to countywide tax of less than three billion dollars ($3,000,000,000), one hundred twenty-five thousand dollars ($125,000) for an urban-county government ***or consolidated local government*** with an assessment subject to countywide tax between three billion dollars ($3,000,000,000) and five billion dollars ($5,000,000,000), and two hundred thousand dollars ($200,000) for an urban-county government ***or consolidated local government*** with an assessment subject to countywide tax in excess of five billion dollars ($5,000,000,000). For purposes of this subsection, the amount to be considered as the assessment for purposes of KRS 132.285 shall be the amount subject to taxation for full urban services.

(15) Notwithstanding the provisions of subsection (9) of this section, the amount appropriated and paid by each county fiscal court to the office of the property valuation administrator for 1996 and subsequent years shall be equal to the amount paid to the office of the property valuation administrator for 1995, or the amount required by the provisions of subsections (9) and (10) of this section, whichever is greater.

Section 168. KRS 132.635 is amended to read as follows:

The provisions of KRS 132.590 and 132.630 shall apply to urban-county governments ***and consolidated local governments***. In an urban-county government ***and in a consolidated local government***, all the rights and obligations conferred on fiscal courts by the provisions of KRS 132.590 and 132.630, shall be exercised by the urban-county government ***or consolidated local government, as the case may be***.

Section 169. KRS 133.240 is amended to read as follows:

(1) The county clerk shall be allowed thirty cents ($0.30) for calculating the state, county and school tax and preparing a tax bill for each individual taxpayer for the sheriff or collector under the provisions of KRS 133.220, and one dollar ($1) for each tax bill made in case of an omitted assessment.

(2) The county clerk shall present his account to the fiscal court, verified by his affidavit, together with his receipt from the sheriff for the tax bills and his receipt from the Revenue Cabinet for the recapitulation sheets. If found correct, the court shall allow the account, and order one-half (1/2) of it paid out of the~~[county]~~ levy and the other one-half (1/2) out of the State Treasury. The county clerk shall certify the allowance to the Finance and Administration Cabinet, which shall draw a warrant on the State Treasurer in favor of the county clerk for the state's one-half (1/2).

(3) The above county allowance shall likewise be paid to the county clerk for calculation of the state, county, city, ***consolidated local government,*** urban-county government, ***and*** school and special district tax for each individual motor vehicle taxpayer, based upon certification from the Revenue Cabinet of the number of accounts as of January 1 each year.

Section 170. KRS 134.140 is amended to read as follows:

(1) The sheriff, by virtue of his office, shall be collector of all state, county***, consolidated local government,*** and district taxes,

unless the payment thereof is, by law, especially directed to be made to some other officer. Where provision is not otherwise made for the collection of taxes, the assessment or proportion thereof allocable to a local taxing district shall be certified to the clerk of the court of the county ***or the clerk of the consolidated local government*** which constitutes or in which such taxing district is located, for collection as provided by law.

(2) The sheriff shall not receive or receipt for any taxes until the tax bills have been delivered to him by the county clerk, as provided in KRS 133.220 and 133.230.

(3) (a) The sheriff, except in urban-county governments, may, and at the direction of the fiscal court ***or a consolidated local government*** shall, invest any tax revenues held in his possession from the time of collection until the time of distribution to the proper taxing authorities pursuant to KRS 134.300, 134.320 and 160.510. Investments by the sheriff shall be restricted to those permitted by KRS 66.480.

(b) At the time of his monthly distribution of taxes to the district board of education, the sheriff shall pay to the board of education that part of his investment earnings for the month which is attributable to the investment of school taxes, but this subsection shall not be construed to prohibit the sheriff from obtaining his expenses not to exceed the rate of four percent (4%) of the earned monthly investment income for the administration of this investment fund.

(c) In those counties where the sheriff pays his fees and commissions to the county and the salaries and expenses of his office are paid by the county, the sheriff shall pay to the county treasurer the investment earnings, other than those paid to the board of education in compliance with subsection (3)(b) of this section, at the time of his monthly distribution of taxes to the county.

(d) In those counties where the office of sheriff is funded in whole or in part by fees and commissions, the sheriff may use investment earnings, other than those which must be paid to the board of education in compliance with subsection (3)(b) of this section, to pay lawful expenses of his office, and the remainder shall be paid to the fiscal court ***or a consolidated local government*** at the time of the sheriff's annual settlement for county***, consolidated local government,*** and district taxes and excess fees.

Section 171. KRS 134.380 is amended to read as follows:

(1) The secretary may act in the name of and in behalf of the state and in the name of and in behalf of any and all counties, ***consolidated local government,*** school, and other taxing districts in the state to institute and prosecute any action or proceeding for the collection of delinquent taxes and the assessment of omitted property. If the cabinet assumes the duties of collecting the delinquent taxes assessed under the authority of KRS Chapter 132, it shall have all the powers, rights, duties, and authority conferred generally upon the cabinet by the Kentucky Revised Statutes, including, but not limited to, Chapters 131, 134, and 135.

(2) Field agents, accountants, and attorneys of the cabinet shall prosecute all actions and proceedings under the direction of the secretary. Field agents, accountants, attorneys, and all other employees of the cabinet engaged in the prosecution of the actions shall not be hired by personal service contract. The secretary shall prosecute diligently, or cause to be prosecuted by field agents, accountants, and attorneys employed by him, the collection of all delinquent taxes due the state.

(3) Nothing contained in this chapter shall prevent the secretary of revenue from assessing any property in accordance with the provisions of KRS 136.020, 136.030, or 136.050, or KRS 136.120 to 136.180.

(4) The cabinet may require the use of any reports, forms, or databases necessary to administer the law in connection with the collection of delinquent taxes. The cabinet shall require an index to be kept of all certificates of delinquency.

Section 172. KRS 134.590 is amended to read as follows:

(1) When it appears to the appropriate agency of state government that money has been paid into the State Treasury for ad valorem taxes when no taxes were in fact due or for taxes of any kind paid under a statute held unconstitutional, the agency of state government which administers the tax shall refund the money, or cause it to be refunded, to the person who paid the tax. No refund or credit shall be authorized to a person who has made payment of the tax due on any tract of land unless the entire tax due the state on the land has been paid.

(2) No refund shall be made unless an application for refund is made within two (2) years from the time payment was made. No refund for ad valorem taxes, except those held unconstitutional, shall be made unless the taxpayer has properly followed the administrative remedy procedures established through the protest provisions of KRS 131.110, the appeal provisions of KRS 133.120, the correction provisions of KRS 133.110 and 133.130, or other administrative remedy procedures.

(3) When it has been determined that city, urban-county, county, school district, ***consolidated local government,*** or special district ad valorem taxes have been paid to a city, urban-county, county, school district, ***consolidated local government,*** or special district when no taxes were due or the amount paid was in excess of the amount finally determined to be due, the taxes shall be refunded to the person who paid the tax.

(4) Refunds of ad valorem taxes shall be authorized by the mayor or chief finance officer of any city***, consolidated local government,*** or urban-county government for the city***, consolidated local government,*** or urban-county government or for any special district for which the city***, consolidated local government,*** or urban-county government is the levying authority, by the county judge/executive of any county for the county or special district for which the fiscal court is the

levying authority, or by the chairman or finance officer of any district board of education.

(5) Upon proper authorization, the sheriff or collector shall refund the taxes from current tax collections held by the sheriff or collector. If there are no such funds, refunds shall be made by the finance officer of the district. The sheriff or collector shall receive credit for any refunds made by the sheriff or collector on the next collection report to the district.

(6) No refund shall be made unless an application is made within two (2) years from the date payment was made. If the amount of taxes due is in litigation, the application for refund shall be made within two (2) years from the date the amount due is finally determined. No refund for ad valorem taxes, except those held unconstitutional, shall be made unless the taxpayer has properly followed the administrative remedy procedures established through the protest provisions of KRS 131.110, the appeal provisions of KRS 133.120, the correction provisions of KRS 133.110 and 133.130, or other administrative remedy procedures.

(7) Notwithstanding other statutory provisions, for property subject to a tax rate that is set each year based on the certified assessment, any loss of ad valorem tax revenue suffered by a taxing district due to the issuance of refunds may be recovered by making an adjustment in the tax rate for the following tax year.

Section 173. KRS 153.440 is amended to read as follows:

In addition to the three percent (3%) transient room tax authorized by KRS 91A.390, fiscal courts in counties containing cities of the first class ***or consolidated local governments*** may levy an additional transient room tax not to exceed one percent (1%) of the rent for every occupancy of a suite, room or rooms, charged by all persons, companies, corporations or other like or similar persons, groups or organizations doing business as motor courts, motels, hotels, inns or like or similar accommodations' businesses. All moneys collected from the tax authorized by this section shall be turned over to the Kentucky Center for the Arts Corporation, and shall be used to defray operating costs of the Kentucky Center for the Arts.

Section 174. KRS 153.460 is amended to read as follows:

(1) As used in this section:

  (a) "Multipurpose arena" means a facility whose principal use includes, but is not limited to, the exhibition of collegiate basketball competition;

  (b) "Restaurant" means any facility operated for profit which has minimum seating capacity of fifty (50) people at tables and which receives at least fifty percent (50%) of its gross annual income from the sale of food.

(2) Fiscal courts in counties containing cities of the first class ***or consolidated local governments*** may levy:

  (a) A ten percent (10%) surcharge on all tickets sold by a multipurpose arena located in the county and constructed after April 9, 1980; and

  (b) A one-fourth of one percent (0.25%) tax on gross receipts from the sale of food and beverages of all restaurants located in the county.

(3) All moneys collected from the surcharge on tickets and the restaurant tax shall be placed in a fund to be used to defray operating expenses of any such multipurpose arena.

Section 175. KRS 161.710 is amended to read as follows:

(1) The local retirement systems merged with the state retirement system under the provisions of Acts 1938 (1st Ex. Sess.), Ch. 1, 49, shall be discontinued. The payment of all benefits to members on the retired roll at the time of discontinuance shall become the obligation of the school district in which the local system was operated prior to its discontinuance. The method of determining and paying refundable deposits due members of the local system shall be as provided in Acts 1938 (1st Ex. Sess.), Ch. 1, 49.

(2) Payments to annuitants in cities of the first class ***or in areas formerly constituting a city of the first class which have been consolidated with their county*** shall not exceed the amount being received by them at the time the local retirement system is discontinued. The sum that remains after the death of all annuitants shall be used by the local board of education for general school purposes.

(3) The local board of education shall continue to invest the funds transferred to it for the benefit of the existing annuitants as long as such annuitants live. Such investment shall be governed by Acts 1934, Ch. 65, Art. IX, except that the local board of education is substituted for the board of trustees of the local retirement system. The local board of education shall keep all funds transferred to it by the local retirement system and all income from the investment of such funds in a separate fund to be known as the annuity fund. The local board of education may pay from the fund any reasonable expenses necessary for the fund's administration and general management. The local board of education shall safeguard the fund by requiring such additional surety bond of the treasurer as it deems necessary, by providing for an annual audit by a reputable auditing firm, by spreading on the minutes of the board of education at least annually a report of investments, assets, and liabilities, and the names, addresses, and annuities of annuitants, and by making such an appropriation to the fund from local school revenues as will guarantee the full and complete discharge of all obligations to annuitants.

Section 176. KRS 162.300 is amended to read as follows:

County boards of education and boards of education of independent districts not embracing a city of any class may obtain buildings for school purposes by proceeding under the provisions of KRS 162.120 to 162.290. When applied to such boards of education, KRS 162.120 to 162.290 shall be so read that the term:

(1) "City" means "county"***, including a county containing a consolidated local government,*** or "urban-county," as the case may be;

(2) "City clerk" means "county clerk" or the appropriate record keeping officer in an urban-county government ***or a consolidated local government***;

(3) "Governing body of the city" means "fiscal court" or the governing body of an urban-county government ***or a consolidated local government***, as the case may be;

(4) "Mayor" means "county judge/executive***,***"[~~or~~] "chief executive officer of the urban-county government," ***or "mayor of a consolidated local government,"*** as the case may be;

(5) "Ordinance" means either "ordinance" or "resolution."

Section 177. KRS 172.200 is amended to read as follows:

(1) Upon the adoption of this optional plan, in counties other than those containing a city of the first class ***or consolidated local government***, the Circuit Judge shall appoint one (1) member of the county's bar, and the members of the county's bar shall, by majority vote, elect another of their number, which two (2) attorneys shall, with the county attorney of the county, constitute and be designated as "Trustees, ... County Law Library." In counties containing a city of the first class ***or consolidated local government***, the Chief Circuit Judge shall appoint one (1) member of the county's bar; the members of the county's bar shall, by majority vote, elect another of their number; the fiscal court ***or consolidated local government pursuant to the provisions of Section 1 of this Act*** shall appoint one (1) member***,*** and one (1) member shall be appointed by the Commonwealth's attorney, which four (4) attorneys shall, with the county attorney of the county, constitute and be designated as "Trustees, ... County Law Library ***"or in a county containing a consolidated local government, "Trustees, .../.........County Law Library," which shall be a combination of the names of the largest city in existence on the date of the approval of the consolidated local government and the county***.[~~"~~]

(2) The trustees shall serve for a term of two (2) years or until their successors are elected or qualified.

(3) The trustees shall be in charge of the county law library, and they shall make purchases of the various state and federal case reports, textbooks, legal encyclopedia, and all other books usually incident to or customarily found in law libraries, or necessary to the protection of the rights of litigants, and they shall cause same to be properly arranged in the county law library, directing the ex officio librarian in the exercise of his duties.

(4) The trustees shall exercise their absolute discretion in the purchase of books, pamphlets, periodicals, and other materials, and in the appointment and compensation of personnel to assist the ex officio librarian in the handling of materials and in the maintenance of the library, but the trustees shall not contract for any such purchases and appointments so as to create an indebtedness greater than the anticipated revenue for the following eighteen (18) months, the anticipated revenue being based upon the preceding eighteen (18) months' revenue, and any indebtedness of the county law library fund shall not be considered in any way an indebtedness of the county, but shall be an indebtedness of the county law library fund only, and all creditors must look only to the county law library fund for satisfaction of their indebtedness.

(5) The trustees shall designate one (1) of their number as treasurer and he shall be accountable for the receipt, deposit, and disbursement of all sums received for the operation of the county law library. He shall be bonded by a corporate bond, the cost of which shall be paid out of the receipts of the library fund. He shall deposit all sums received by him as treasurer in a regular banking depository, and he shall pay for all purchases made by the trustees by check or draft, keeping a true and accurate account of all sums received and expended by him. He shall annually file a written report with the Circuit Judge of the county showing all sums received by him, together with the court from which they were received, and an itemized statement of all expenditures made by him. The treasurer shall turn all funds over to his successor, together with a full inventory of the county law library, and together with a full and complete itemized statement of all outstanding accounts.

Section 178. KRS 173.105 is amended to read as follows:

(1) The fiscal court of any county containing a population of over two hundred thousand (200,000) and a city of the first class, may contract with the board of trustees of the free public library of any such city for the purpose of granting to the residents and schools of such county the same privileges afforded by such library to residents and schools in the city.

(2) Notwithstanding any provisions of Kentucky Revised Statutes to the contrary, when the fiscal court of any county containing a population of over two hundred thousand (200,000) and a city of the first class have in effect a compact under KRS 79.310 to 79.330, the city and county shall by joint action create a joint city/county department for the purpose of providing a free public library. In such event, the board of trustees shall be dissolved as a corporate entity and all assets and liabilities of the board of trustees shall be transferred to the joint department. An advisory board may be established by joint agreement of such city and county. ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing that city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the joint department shall become a department of the consolidated local government and all assets and liabilities of the joint department shall be transferred to the consolidated local government. An advisory board may be established or maintained by a consolidated local government. Members of the advisory board shall be appointed pursuant to the provisions of Section 1 of this Act and shall serve at the pleasure of the mayor of the consolidated local government.***

(3) If the fiscal court enters into a contract pursuant to subsection (1) of this section, then the county judge/executive shall

have the authority to appoint one-half (1/2) of the positions on the board of trustees of the free public library. Appointments shall be made for four (4) year terms. Each appointee must be at the time of his ***or her*** appointment a taxpayer and qualified voter in the county.

(4) The county judge/executive shall make the appointments authorized by subsection (3) of this section in the following manner. On March 31 of 1978 and March 31 of 1980, he ***or she*** shall appoint persons to fill two (2) of the vacancies which occur. On March 31 of 1979 and March 31 of 1981, he ***or she*** shall appoint a person to fill one (1) vacancy which occurs. He ***or she*** shall continue to make the appointments to these positions when a vacancy occurs or a term expires, subject to subsection (5) of this section.

(5) If the contract between the fiscal court and a free public library terminates or ceases to be in effect, the county judge/executive shall no longer have the authority to appoint persons as trustees to the board of the free public library and the mayor may terminate the appointment of trustees appointed by the county judge/executive and appoint persons to fill their unexpired terms.

(6) The fiscal court may annually appropriate money out of the county treasury to the maintenance and support of the library.

(7) Money so appropriated by the fiscal court may be expended by the board of trustees of the free public library in the establishment of branch stations in the county outside the city of the first class, under regulations of the board of trustees.

Section 179. KRS 173.106 is amended to read as follows:

In a county where the county and a city of the first class have in effect a compact under KRS 79.310 to 79.330 and have created a joint city/county library department, the county clerk, when he ***or she*** receives an application for vehicle registration pursuant to KRS 186.030, shall present the person making the application an opportunity to make a voluntary contribution for the support of the free public library. If the applicant chooses to donate to the library, he or she shall include the donation in the fee. The clerk shall pay the donations to the library department in the same fashion as taxes are paid pursuant to KRS 134.815 and shall be entitled to the same commission as that payable on county taxes pursuant to KRS 134.805. ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing that city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, and have created a joint city/county library department, the county clerk shall continue the procedure by which persons may make voluntary contributions for the support of the free public library. The donations shall be transferred to the consolidated local government for the maintenance of the library department in the same manner as moneys are transferred pursuant to KRS 134.815 and the county clerk shall be entitled to the same commission as that payable on taxes pursuant to KRS 134.805.***

Section 180. KRS 173.107 is amended to read as follows:

Any library established or maintained pursuant to the provisions of KRS 173.310 to 173.410 shall not, upon becoming a city of the first class***, or a consolidated local government***, or a county containing a city of the first class, have its tax levy or appropriation decreased except by the procedure in KRS 173.790.

Section 181. KRS 173.860 is amended to read as follows:

There is hereby created the urban libraries fund for distribution to free public libraries in counties containing cities of the first or second class, urban-county governments***, consolidated local governments,*** or any county in which there are no incorporated areas pursuant to the provisions of KRS 173.870. The fund shall consist of such sums as are appropriated by the General Assembly, and any grants, gifts, legacies, devises or other funds or property from any available source, public or private. The receipt, control and expenditure of funds shall be subject to the general provisions of KRS Chapters 41 to 47, governing financial administration of state agencies.

Section 182. KRS 177.9771 is amended to read as follows:

(1) The "extended weight coal or coal by-products haul road system" shall consist of all state-maintained toll roads or state-maintained roads which were previously toll roads and the public highways over which quantities of coal or coal by-products in excess of fifty thousand (50,000) tons were transported by motor vehicles during the period from January 1, 1985, through December 31, 1985, and shall be updated annually thereafter.

(2) The secretary of the Transportation Cabinet shall by official order on or before November 1, of each year, certify such public highways or portions thereof, as fulfill the criteria in subsection (1) of this section, as the extended weight coal or coal by-products haul road system.

(3) The total tons of coal or coal by-products transported by motor vehicles over any public highway shall be determined from the official coal or coal by-products road system transportation report required pursuant to KRS 177.977.

(4) Any vehicle, when registered with a declared gross weight of eighty thousand (80,000) pounds and when transporting coal or coal by-products over public highways which are part of the extended weight coal or coal by-products haul road system or portions thereof, may be operated at the weights as set forth below in excess of the maximum gross weight prescribed in KRS 189.221 and 189.222 and any other maximum weight limitations on state or county maintained systems by paying the corresponding decal fee as set forth below:

(a) A single unit truck having one (1) steering axle and two (2) axles in tandem shall be limited to a maximum gross weight of ninety thousand (90,000) pounds with a tolerance of five percent (5%), and pay a decal fee of one hundred sixty dollars ($160) annually;

(b) A single unit truck having one (1) steering axle and three (3) axles in tridem arrangement shall be limited to a maximum gross weight of one hundred thousand (100,000) pounds with a tolerance of five percent (5%), and pay a decal fee of two hundred sixty dollars ($260) annually;

(c) Tractor-semitrailer combinations with five (5) or more axles shall be limited to a maximum gross weight of one hundred twenty thousand (120,000) pounds with a tolerance of five percent (5%), and pay a decal fee of three hundred sixty dollars ($360) annually;

(d) Any motor carrier involved in the transportation of coal or coal by-products which meets gross axle weights of twenty thousand (20,000) pounds per axle and twelve thousand (12,000) pounds for the steering axle may register in excess of eighty thousand (80,000) pounds by payment of eight hundred forty dollars ($840) plus an additional decal fee of ten dollars ($10) per one thousand (1,000) pounds of registered weight above eighty thousand (80,000) pounds;

(e) For purposes of this section, KRS 177.979, and 189.230, and for purposes of the extended weight coal or coal by-products haul system, the dimensional requirements of motor vehicles shall conform to all appropriate federal laws and regulations;

(f) The payment of the decal fee shall be in addition to any state registration fee, user fee or other decal fee, including the registration fee as specified in KRS 186.050(3);

(g) Motor vehicles used in the transportation of coal or coal by-products under cooperative agreements pursuant to KRS 177.979 shall be exempt from the payment of the decal fee as set forth in this section and the registration fee as set forth in KRS 186.050(3) as long as the truck is driven over cooperative roads only while full. The Transportation Cabinet shall issue identifying license plates for those motor vehicles under cooperative agreements;

(h) All fees under this section shall be scheduled for payment and prorated pursuant to the provisions of KRS 186.051; and

(i) All revenues generated pursuant to this section shall be credited to a special account within the road fund called the "energy recovery road fund."

(5) Sixty percent (60%) of all energy recovery road funds shall be used by the Department of Highways for construction, maintenance, and repair of the state-maintained portion of the extended weight coal or coal by-products haul road system.

(6) Forty percent (40%) of all energy recovery road funds shall be distributed to the fiscal court of those counties in which coal or coal by-products are transported for the sole purpose of construction, maintenance and repair of the county-maintained portion of the extended weight coal or coal by-products haul system. The distribution of funds to the counties shall be proportioned based on the miles of county roads on the extended weight coal or coal by-products haul system in each county compared to the total mileage of county roads in the total extended weight coal or coal by-products haul road system and the tons of coal or coal by-products transported over county roads on the extended weight coal or coal by-products haul system in each county compared to the total tons of coal or coal by-products transported over county roads in the total extended weight coal or coal by-products haul road system.

(7) Nothing in this section shall be construed or administered to jeopardize the receipt of federal funds for highway purposes and the secretary of transportation shall not act in any manner which shall jeopardize federal highway funds or funds to be received by the Commonwealth. This section shall not be construed to authorize any vehicle to operate on a federal interstate highway in excess of those limits prescribed in KRS 189.222. This section shall not be construed to prohibit the Department of Highways from providing for the public safety and convenience of the traveling public on the highway.

(8) As soon as practical after the report is prepared and published pursuant to KRS 177.977 for any calendar year after 1985, the secretary shall add to or delete from the extended weight coal or coal by-products haul road system public highways or portions thereof based upon the criteria set out in this section. Deletion of a public road or portion of it from the extended weight coal or coal by-products haul road system shall not affect the eligibility of the roads for highway funds or programs applicable to the extended weight coal or coal by-products haul road system.

(9) A fiscal court***,***[~~or~~] a governing body of a city of the first through fourth class***, consolidated local government,*** or urban-county government may by resolution, make recommendation to the secretary of the Transportation Cabinet that certain roads or road segments in the county or corporate city limits pose inherent and definite hazards, special conditions, or greatly impact the economy of the county or city and that the secretary shall meet with said fiscal court or local governing body and take into consideration their concerns before adding to or deleting from the extended weight coal or coal by-products haul system.

(10) The secretary of the Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A necessary to administer the provisions of this section, KRS 177.9772, 177.979, and 189.230.

Section 183. KRS 178.020 is amended to read as follows:

Every county road, bridge and landing, and every city street and alley heretofore lawfully established and opened and not lawfully discontinued or vacated shall continue as such, until properly discontinued. Every road, street and alley, used and occupied as a public road, street or alley, shall be presumed to be a public road, street or alley, as the case may be. Nothing in this section shall be interpreted as interfering with the right of the fiscal court of a county containing a city of the first class ***or a consolidated local***

government from detaching a road or a portion thereof from the county through road system.

Section 184. KRS 178.040 is amended to read as follows:

(1) In order to change the width of a county road, the fiscal court ***or a consolidated local government*** shall make a special order for a different width. The order shall be recorded in the office of the county clerk. In order to change the width of the right-of-way of a portion of a county through road system the fiscal court of a county containing a city of the first class ***or a consolidated local government*** may make a special order for a different width. The order shall be recorded in the office of the county road engineer.

(2) All county roads hereafter established shall occupy a right-of-way not less than thirty (30) feet wide, but the fiscal court ***or a consolidated local government*** may order it to be a greater width. All roads added to the county through road system in a county containing a city of the first class ***or a consolidated local government*** in accordance with KRS 178.333 shall occupy a right-of-way width as ordered by the fiscal court ***or the consolidated local government***.

(3) In acquiring a right-of-way for a county through road within any city, the fiscal court or the county court of a county containing a city of the first class ***or the consolidated local government*** may exercise any powers granted them by statute for the acquisition of property.

Section 185. KRS 178.117 is amended to read as follows:

(1) Any person or corporation, public or private, or any group of such persons or corporations or both residing in or owning property adjacent to any publicly dedicated road in unincorporated territory in a county containing a city of the first class ***or consolidated local government*** desiring to make any improvements to the publicly dedicated road shall submit to the fiscal court ***or the consolidated local government*** for approval plans and specifications for its improvements at their own expense. Any such request for private improvement shall include all the information required by KRS 184.020 to accompany a request for the creation of a public road district pursuant to that section.

(2) The sponsors of the private improvement of the publicly dedicated road shall present their request, together with the attached maps and estimates of cost, to the fiscal court ***or the consolidated local government***, who shall turn over to the county engineer for his consideration the maps and estimates of cost. In considering whether to permit the requested improvement, the fiscal court***, or the consolidated local government,*** and the county engineer shall follow the same procedures provided for in KRS 184.040 and the same appellate rights provided for in these sections are available to the petitioners. When the county engineer receives from the fiscal court ***or the consolidated local government*** an application for approval of plans or specifications for the private improvement of publicly dedicated roads by some individual or corporation, or a combination thereof, the county engineer shall be authorized and empowered to examine, inspect and investigate, as seems to be advisable, the sufficiency of the improvements which the application seeks to serve the purposes intended, and to establish and make reasonable charges for such services on the basis of a schedule adjusted according to the services required to make such investigation or on any other reasonable method.

(3) When it appears to the county engineer that the completion of the improvement by or on behalf of any such individual or corporation requires inspection and supervision in order to assure the protection of the public safety and the proper subsequent completion of such work for the purposes intended, the county engineer shall include such findings in his recommendation to the fiscal court ***or the consolidated local government*** approving, modifying***,*** or disapproving the particular plans and projects, and shall charge such person or corporation for such inspection and supervision on the basis of the actual cost of inspection plus a reasonable additional cost of supervision.

Section 186. KRS 178.330 is amended to read as follows:

(1) It is hereby declared that in counties containing a city of the first class ***or a consolidated local government*** a system of county through roads over which traffic can be routed or which can serve as major connecting links to state highways is a necessary and integral part of a unified system of highways, roads and streets needed for the movement of traffic in such a metropolitan area and that the construction, reconstruction, widening, relocation, repair, maintenance and improvement of such a system of county through roads is a proper and legitimate public function as an alternative to other authorizations or requirements.

(2) The fiscal court of a county containing a city of the first class ***or the consolidated local government***, acting upon the basis of an engineering and traffic investigation by the county road engineer, may designate for purposes of construction, reconstruction, widening, relocation, repair, maintenance and improvement from among the public roads within the county certain roads proposed to constitute the "county through road system." County through roads may include (a) main traveled roads, (b) roads in unincorporated areas necessary for the circulation of traffic within the county, (c) streets and roads through, within, or adjacent to cities of any class necessary for the circulation of traffic within the county, or (d) major roads connecting two (2) primary roads maintained by the state. County through roads shall not include roads on the state highway system.

(3) As soon as the proposed county through roads are designated as provided in subsection (2) of this section, the fiscal court ***or a consolidated local government*** shall cause such county through roads to be marked on a map to be deposited with the county road engineer and to be open to public inspection. Upon the filing of the map, the clerk of the fiscal court ***or the clerk of a consolidated local government*** shall, in conformance with KRS 424.130(1)(b), have published in a newspaper of bona fide general circulation within the county (a) a notice of the proposed adoption of a county through road system,

(b) a description of roads or portions thereof proposed to be included, (c) notice of the date upon which the fiscal court ***or a consolidated local government*** will consider the adoption of the county through road system, and (d) notice that the map of the proposed county through road system is open to inspection in the office of the county road engineer.

(4) At any time before the adoption of the county through road system, any freeholder of the county may file a petition with the county road engineer asking for any change in the designated county through roads, setting forth the reason for the proposed change. Such petition shall be accompanied by a plat showing such proposed change. Any such petition shall be considered by the fiscal court ***or the consolidated local government*** at its meeting held on the date advertised in accordance with subsection (3) of this section. The fiscal court ***or the consolidated local government*** may accept or reject any such suggested changes in the proposed county through road system. The fiscal court ***or the consolidated local government*** may continue the consideration to a later meeting which must be advertised as provided in subsection (3) of this section. The roads which the fiscal court ***or the consolidated local government*** so designated by official resolution shall be conclusively established as the county through road system.

(5) Classifications or designations of a county through road system established by this section shall not affect or change classifications or designations made by other sections of the Kentucky Revised Statutes such as "county roads," "main county roads," "rural and secondary roads," "turnpikes," "city streets" or similar terms; except that when there is an irreconcilable conflict arising from the actual application of this section in a given instance and a designation or classification made in other sections of the Kentucky Revised Statutes, this section shall prevail. Nothing in KRS 178.020 to 178.040, 178.117, 178.330 to 178.337, 179.070 and 179.330 shall preclude the expenditure on the county through road system, including portions within cities, of state funds allocated for public highways under the provisions of KRS 179.410 and 179.415, or 177.320 to 177.369, or any other section of the Kentucky Revised Statutes in accordance with the provisions of KRS 177.330, 177.340, or 179.440.

(6) The provisions of KRS 178.050 to 178.100 shall not apply to a county through road system established ***or maintained*** under KRS 178.330 to 178.337.

Section 187. KRS 178.333 is amended to read as follows:

(1) The fiscal court of a county containing a city of the first class ***or a consolidated local government*** may, at any time, add other roads, or portions of roads, to the county through road system adopted in accordance with KRS 178.330. The fiscal court ***or a consolidated local government*** shall cause the proposed addition to be marked on a map to be deposited with the county road engineer and to be open to public inspection. The same procedure set forth in KRS 178.330 for the establishment ***or maintenance*** of the county through road system shall be followed in the case of roads or portions of roads added thereto. Notice of the proposed addition to the system shall conform to KRS 424.130(1)(b).

(2) The fiscal court of a county containing a city of the first class ***or a consolidated local government*** may establish ***or maintain*** a new road in compliance with the provisions of KRS 178.115 to 178.125, or relocate a road in accordance with KRS 178.115, and at the same time add it to the county through road system, following the same procedure as is now set forth in KRS 178.330 and subsection (1) of this section, including notice in accordance with KRS 424.130(1)(b).

(3) The decisions of the fiscal court ***or the consolidated local government*** made in accordance with this section shall be final.

Section 188. KRS 178.337 is amended to read as follows:

(1) After an engineering and traffic investigation and the receipt of recommendations by the county road engineer, a county through road or a portion thereof established ***or maintained*** as provided in KRS 178.330 may be detached from the county through road system. The fiscal court ***or the consolidated local government*** shall cause the proposed deletion to be marked on a map to be deposited with county road engineer and to be open to public inspection. The same procedure set forth in KRS 178.330 for the establishment ***or maintenance*** of a county through road system shall be followed in the case of roads or portions of roads detached therefrom. Notice of the proposed deletion from the system shall conform to KRS 424.130(1)(b). The fiscal court ***or the consolidated local government*** may in its discretion detach or retain the road as a part of the county through road system. The decisions of the fiscal court ***or the consolidated local government*** made in accordance with this section shall be final. Whenever any county through road has been added or detached from the county through road system in accordance with KRS 178.330 to 178.337, the county road engineer shall accordingly amend the map of the county through road system, which map shall at all times be available for public inspection in the office of the county road engineer. Nothing herein shall be construed as automatically deleting from the county through road system any portion of the system in territory which becomes incorporated as a city or which becomes annexed to a city.

(2) Nothing in this chapter shall be construed to take from the jurisdiction or control of the legislative body of any incorporated city ***or consolidated local government***, any road, bridge, landing or wharf, or any other thing exclusively under the jurisdiction or control of such city ***or a consolidated local government***. Provided, however, that roads within a city of the first through sixth classes in a county containing a city of the first class ***or a consolidated local government*** may be made a part of the county through road system, in accordance with KRS 178.330 or 178.333, or both, with the agreement of the legislative body of said city.

(3) Nothing in this chapter shall prevent any fiscal court ***or a consolidated local government*** from acquiring land by gift for public purposes.

Section 189. KRS 178.350 is amended to read as follows:

The provisions of KRS 178.350 to 178.385 shall apply only in counties containing a city of the first class ***or a consolidated local government***.

Section 190. KRS 178.405 is amended to read as follows:

When any private road, street, or highway established prior to February 12, 1969 in an unincorporated area in a county containing a city of the first class ***or a consolidated local government, which area is not within the jurisdictional boundaries of a city of the second through sixth classes of cities,*** has been used by the general public openly, continuously, and notoriously for a period of at least fifteen (15) years, it shall be implied that such road, street, or highway may be dedicated to public use; Provided, that fifty-five percent (55%) of all property owners abutting the private road, street or highway sign a petition stating that they are willing to dedicate the road, street, or highway to public use.

Section 191. KRS 179.070 is amended to read as follows:

(1) The county engineer shall:

(a) Have general charge of all county roads and bridges within the county;

(b) See that county roads and bridges are improved and maintained as provided by law;

(c) Supervise the construction and maintenance of county roads and bridges and other work of like nature undertaken by the fiscal court ***or a consolidated local government***;

(d) Make reports as the county***, consolidated local government,*** or fiscal court directs;

(e) Advise and direct employees of contractors how best to repair, maintain, and improve county roads and bridges;

(f) Examine the various formations and deposits of gravel and stone in the county to ascertain the materials most available and best suited for the improvement of roads therein, and, when requested by the Department of Highways, submit samples of materials and deposits and make a written report concerning the materials;

(g) Establish or cause to be established necessary grades and recommend means of drainage, repair, and improvement;

(h) Together with the fiscal court ***or consolidated local government***, consider and either reject or approve plans, specifications, and estimates submitted for the erection or repair of bridges and the construction or maintenance of county roads;

(i) Inspect, or cause to be inspected, each county road or bridge during its construction or improvement, and certify to the fiscal court ***or the consolidated local government*** the progress of the work and whether or not the work is being done according to the contract, plans, and specifications prepared therefor. If the work is not being done in accordance with the contract, plans, and specifications, ***the county engineer***[~~he~~] may stop any further work thereunder until the fiscal court ***or consolidated local government*** has inspected and passed upon it;

(j) Remove trees or other obstacles from the right-of-way of any publicly dedicated road when the tree or other obstacles become a hazard to traffic;

(k) Make recommendation to municipal authorities in a county containing a city of the first or second class***, the mayor in a consolidated local government,*** or the county judge/executive of a county containing a city of the first or second class for the establishment of speed limits in accordance with the powers granted to municipal authorities***, consolidated local governments,*** and the county judge/executive by KRS 189.390(5)(a), and make recommendations to the county judge/executive ***or consolidated local government*** for the establishment of parking restrictions by the county judge/executive ***or consolidated local government*** in accordance with KRS 189.390(5)(c); and

(l) Make engineering and traffic investigations and make recommendations based thereupon to the fiscal court of counties containing a city of the first or second class ***or consolidated local government*** for the adoption of traffic regulations for any publicly dedicated road in unincorporated portions of the county or for any road made a portion of a county through road system, established in accordance with KRS 178.330 or 178.333, or both, in any manner reasonably calculated to promote the safety and convenience of the traveling public and to protect and preserve the roads and streets. The fiscal court ***or consolidated local government*** may adopt regulations which may include, but not be limited to, the establishment on roads designated in the first sentence of this subsection, of traffic lanes, the installation or removal of electric signals and other signs and markers, the removal of traffic bumps, the limitation or prohibition of parking, and the regulation or prohibition of a size or weight deemed likely to impede traffic or injure the streets; provided, however, that if such regulation of size and weight of vehicles conflicts with state regulations, the latter shall prevail. Nothing herein shall be construed to prevent the fiscal court ***or consolidated local government*** from contracting with city authorities for the joint installation of signs, markers, and electric signals and for their maintenance.

(2) In counties containing a city of the first class ***or consolidated local government***, or when authorized by ordinance of the fiscal court of a county containing a city of the second class, having the services of a county engineer, every person, subdivider, builder, contractor, or developer of any construction project shall submit to the county engineer for his written approval a site development plan providing for the proper drainage of surface water from the development or construction site so as to prevent flooding of property in the area. If the proposed site plan does not adequately provide for such drainage, the county engineer shall order such changes as necessary before approving the site plan.

Section 192. KRS 179.330 is amended to read as follows:

(1) Every county road shall be known by the name by which it was designated on the map or plat or record in the office of the county clerk of the county in which it is located or by the order of the court establishing the road, or by the deed conveying the right-of-way for the road to the county.

(2) When the name of any road has been designated as provided in subsection (1) of this section, the name of the road can only be changed by an order of the county judge/executive ***or the mayor of a consolidated local government***. Such order may be issued on a petition and proceeding in which fifty percent (50%) or more of the property owners abutting upon the road have joined in the petition or have been summoned for a hearing upon the petition by the county judge/executive ***or the mayor of a consolidated local government*** at a day and time designated for the hearing or in counties containing a city of the first class ***or consolidated local government*** upon the recommendation of the county engineer and of the planning and zoning commission. On similar proceeding an order may be issued designating a name for any unnamed road in the county.

(3) The fiscal court ***or a consolidated local government*** may cause signs bearing the name of each road as fixed by the county judge/executive ***or the mayor of a consolidated local government***, to be placed on the roads, or it may, by a resolution duly recorded, authorize any person or organization to erect signs, approved as to form by the fiscal court ***or a consolidated local government***, bearing the name designated to the road by the county judge/executive ***or the mayor of a consolidated local government***.

(4) No person or organization shall remove or damage any sign erected as hereinabove provided for, or erect or place, or cause to be erected or placed, upon a road any sign or signs, indicating, marking, or designating a road by any other name than as hereinabove provided for.

(5) Nothing in this section shall prohibit the Department of Highways from designating roads built under the supervision of the Department of Highways, either by name or number.

Section 193. KRS 179.470 is amended to read as follows:

(1) In counties containing a city of the third class, and not a city of the first class ***or a consolidated local government***, any street or road located outside of the corporate limits of an incorporated city which is a street or road of a subdivision established by a recorded plat that dedicates the street or road to public use, shall be maintained by the fiscal court of the county in the same manner that roads established under KRS 178.115 are maintained, if the street or road is at least one thousand (1,000) feet in length and at least fifty percent (50%) of the lots abutting the street or road contain houses which are occupied, and the street or road has been or shall be so constructed as to meet the approval of the county road engineer or, if there is no county road engineer, the approval of the fiscal court, such approval being based upon the established standards for county road construction within the county.

(2) Notwithstanding the provisions of KRS 178.010(2), in counties containing a city of the first class ***or a consolidated local government***, any street or road located in the[~~ unincorporated~~] area of the county ***not within a city of the second, third, or fourth class or within the area formerly comprising a city of the first***[~~or in a city of the fifth or sixth~~] class, which is a street or road of a subdivision that dedicated the street or road to public use, may be maintained by the fiscal court of the county ***or consolidated local government as the case may be,*** in the same manner as provided in subsection (1) and subject to the same conditions. In addition, street lights and other improvements already established may be maintained by the fiscal court ***or consolidated local government***. The county ***or consolidated local government*** shall be reimbursed for the cost of such maintenance by the abutting property owner whose proportionate share of the cost of maintenance shall be added to the owner's county tax bill and collected in the same manner as ***other***[~~county~~] taxes.

(3) Notwithstanding the provisions of KRS 178.010(2), in counties containing a population between eighty thousand (80,000) and one hundred fifteen thousand (115,000) and a city of the second class or in counties containing a city of the fourth, fifth or sixth class and not a city of the first, second or third class, any street or road in an unincorporated area or a city of the sixth class of the county, which is at least two hundred (200) feet in length and dedicated to public use, may be maintained by the fiscal court of the county in the same manner as provided in subsection (1) of this section. In addition, street lights, garbage collection, water and sewer services may be provided by the fiscal court. The county shall be reimbursed for the cost of such maintenance and services by the abutting property owner whose proportionate share of the cost of maintenance and services shall be added to the owner's county tax bill and collected in the same manner as county taxes. Further, upon the petition of fifty percent (50%) or more of the abutting property owners of the street or road the fiscal court may by proper resolution provide for the improvements.

(4) No street or road shall be accepted by ***a*** fiscal court ***or consolidated local government*** under the provisions of subsections (2) or (3) of this section for county maintenance unless twenty-five percent (25%) of the abutting property owners petition the fiscal court ***or consolidated local government*** for county maintenance. The fiscal court ***or consolidated local government*** within thirty (30) days thereafter shall hold a public hearing on the petition. If fifty percent (50%) of the abutting property owners agree in writing to accept county maintenance***,*** the fiscal court of the county ***or the consolidated local government*** may maintain the road or street in the same manner as provided in subsection (2) or (3) of this section as applicable and subject to the same conditions.

Section 194. KRS 181.850 is amended to read as follows:

(1) ***Except in a county containing a consolidated local government,*** any city of the first class may, by ordinance, create a bridge commission consisting of the mayor and four (4) persons appointed by the mayor with the approval of the board of aldermen. ***In a county containing a consolidated local government, a consolidated local government may, by ordinance, create or maintain a bridge commission consisting of the mayor and four (4) persons appointed by the mayor pursuant to the provisions of Section 1 of this Act.*** Each appointee shall be at least twenty-five (25) years of age. The original appointees shall serve for terms expiring on January 1, in the fourth year following their appointments, and until their respective designated successors shall be duly appointed and qualified. Their successors shall be appointed for one (1), two (2), three (3) and four (4) years, respectively. Thereafter the appointments shall be for four-year terms. A member of the bridge commission shall be eligible for reappointment. Not more than two (2) appointees shall be members of the same political party. Vacancies shall be filled for unexpired terms in the same manner as the original appointments. Each appointed member of the bridge commission, before entering upon his duties, shall take an oath to administer the duties of his office faithfully and impartially, and a record of each oath shall be filed in the office of the director of finance of the city ***or consolidated local government***. No officer or employee of the city ***or consolidated local government***, whether he ***or she*** receives compensation or not, shall be appointed to the bridge commission.

(2) The bridge commission shall constitute a public instrumentality under the name of (insert name of city ***or consolidated local government***) bridge commission and the exercise of the powers conferred by KRS 181.850 to 181.869 shall be deemed and held to be the performance of essential ***governmental***~~[municipal]~~ functions. The commission shall elect a chairman and a vice chairman from its appointed members, and a secretary-treasurer who need not be a member of the commission. The chairman, vice chairman and secretary-treasurer shall serve as such officers at the pleasure of the commission. Three (3) members of the commission shall constitute a quorum and the affirmative vote of three (3) members shall be necessary for any action taken by the commission. No vacancy in the membership of the commission shall impair the right of a quorum to exercise all the rights and perform all the duties of the commission.

(3) The members of the commission except the mayor shall receive such compensation as may be fixed in the ordinance creating the commission but the maximum compensation of the chairman in any year shall not exceed two thousand five hundred dollars ($2,500) and of each other member shall not exceed five hundred dollars ($500). The commission shall fix or change the compensation of the secretary-treasurer in its discretion.

Section 195. KRS 181.851 is amended to read as follows:

As used in KRS 181.850 to 181.869, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(1) The word "city" shall mean any city of the first class ***or consolidated local government*** for which a bridge commission shall be appointed under the provisions of KRS 181.850;

(2) The word "commission" shall mean any bridge commission created under the provisions of KRS 181.850, or, if any such commission shall be abolished, the board, body, or commission succeeding to the principal functions thereof or to whom the powers given by KRS 181.850 to 181.869 to the commission shall be given by law;

(3) The word "bridge" shall include the substructure and superstructure, overpasses, underpasses, entrance plazas, tollhouses, administration, storage, and other buildings and facilities, all equipment therefor, and such approaches and approach highways as may be determined by the commission to be necessary to facilitate the flow of traffic or to connect such bridge with the highway systems or other traffic facilities in the vicinity of such bridge, together with all property, rights, easements, and interests which may be acquired by the commission for the construction or operation of such bridge;

(4) The word "cost" as applied to a bridge shall embrace the cost of construction, the cost of the acquisition of all land, rights-of-way, property, rights, easements, and interests acquired by the commission for such construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to and during construction, and, if deemed advisable by the commission, for a period not exceeding one (1) year after completion of construction, cost of traffic estimates and of engineering, financial and legal services, plans, specifications, surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing any such bridge, administrative expenses, and such other expenses as may be necessary or incident to the construction of the bridge, the financing of such construction, and the placing of the bridge in operation. Any obligation or expense incurred by the city in connection with any of the foregoing items of cost may be regarded as a part of such cost and reimbursed to the city out of the proceeds of revenue bonds issued under the provisions of KRS 181.850 to 181.869.

Section 196. KRS 181.853 is amended to read as follows:

(1) The commission is hereby authorized and empowered to acquire by purchase, whenever it shall deem such purchase expedient, solely from funds provided under the authority of KRS 181.850 to 181.869, within or without the Commonwealth, such lands, structures, property, rights, rights of way, franchises, easements and other interests in lands, including lands lying under water and riparian rights, as it may deem necessary or convenient for the construction or operation of any bridge, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof, and to take title thereto in the name of the city for the use and benefit of the commission.

(2) Whenever a reasonable price cannot be agreed upon, or whenever the owner is legally incapacitated or is absent, unknown or unable to convey valid title, the commission is hereby authorized and empowered to acquire by condemnation or by the exercise of the power of eminent domain any lands, property, rights, rights of way, franchises, easements and other property, including public lands, parks, playgrounds, reservations, highways, or parkways or parts thereof or rights therein, of any person, co-partnership, association, railroad, public service, public utility or other corporation, or municipality or political subdivision deemed necessary or convenient for the construction or the efficient operation of any bridge or necessary in the restoration of public or private property damaged or destroyed. Any such proceedings shall be conducted in the name of the commission, and the compensation to be paid shall be ascertained and paid, in the manner provided by the constitution and laws of the Commonwealth then applicable which relate to condemnation or to the exercise of the power of eminent domain by cities~~[of the first class]~~. Title to any property acquired by the commission shall be taken in the name of the city for the use and benefit of the commission. In any condemnation proceedings the court having jurisdiction of the suit, action or proceeding may make such orders as may be just to the commission and to the owners of the property to be condemned and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the commission to accept and pay for the property, but neither such undertaking or security nor any act or obligation of the commission shall impose any liability upon the city or commission except as may be paid from the funds provided under the authority of KRS 181.850 to 181.869.

(3) If the owner, lessee or occupier of any property to be condemned shall refuse to remove his ***or her*** personal property therefrom or give up possession thereof, the commission may proceed to obtain possession in any manner now or hereafter provided by law.

(4) With respect to any railroad property or right of way upon which railroad tracks are located, any powers of condemnation or of eminent domain may be exercised to acquire only an easement interest therein which shall be located either sufficiently far above or sufficiently far below the grade of any railroad track or tracks upon such railroad property so that neither the proposed bridge nor any part thereof, including abutments, columns, supporting structures and appurtenances, nor any traffic upon it shall interfere in any manner with the use, operation or maintenance of the trains, tracks, works or appurtenances or other property of the railroad nor endanger the movement of the trains or traffic upon the tracks of the railroad. Prior to the institution of condemnation proceedings for such easement over or under such railroad property or rights of way, plans and specifications of the proposed bridge showing compliance with the above-mentioned above or below grade requirements and showing sufficient and safe plans and specifications of such overhead or undergrade structure and appurtenances shall be submitted to the railroad for examination and approval. If the railroad fails or refuses within thirty (30) days to approve the plans and specifications so submitted, the matter shall be submitted to the department of works of the city whose decision, arrived at after due consideration and with an opportunity to the railroad to be heard, shall be final as to the sufficiency and safety of such plans and specifications and as to such elevations or distances above or below the tracks. Said overhead or undergrade structure and appurtenances shall be constructed only in accordance with such plans and specifications and in accordance with such elevations or distances above or below the tracks so approved by the railroad or the department of works of said city as the case may be. A copy of the plans and specifications approved by the railroad or the department of works of said city shall be filed as an exhibit with the petition for condemnation.

(5) The Commonwealth hereby consents to the use of all lands owned by it, including lands lying under water, which are deemed by the commission to be necessary for the construction or operation of any bridge.

Section 197. KRS 183.132 is amended to read as follows:

(1) Any urban-county government, city, or county, or city and county acting jointly, or any combination of two (2) or more cities, counties, or both, may establish a nonpartisan air board composed of six (6) members. Any city other than the first class and county jointly or an urban-county government established pursuant to KRS Chapter 67A may establish a nonpartisan board composed of ten (10) members. Any existing six (6) member board, including a board established in an urban-county government, may be expanded to ten (10) members by action of the government entity or entities that established the six (6) member board.

(2) Any city of the first class, jointly with the county containing the city ***or a consolidated local government*** may establish ***or maintain*** a nonpartisan air board. Membership of the board shall be appointed in accordance with subsection (6) ***or (10)*** of this section.

(3) The board shall be a body politic and corporate with the usual corporate attributes, and in its corporate name may sue and be sued, contract and be contracted with, and do all things reasonable or necessary to effectively carry out the duties prescribed by statute. The board shall constitute a legislative body for the purposes of KRS 183.630 to 183.740.

(4) The members of an air board composed of six (6) members shall be appointed as follows:

(a) If the air board is established by a city, the members shall be appointed by the mayor of the city;

(b) If the air board is established by a county, the members shall be appointed by the county judge/executive except that in the event that an airport is located outside the boundary of the county establishing the airport board, the county judge/executive shall appoint an additional member to the air board from the jurisdiction where the airport is physically located. The additional member shall serve a four (4) year term in accordance with the provisions of subsection (7) of this section and receive full voting privileges on matters brought before the airport board;

(c) If the air board is established as a joint city-county air board, the members shall be appointed jointly by the mayor of the city and the county judge/executive;

(d) If a combination of cities, counties, or both, establishes a joint air board, the mayors and county judges/executive involved shall jointly choose six (6) members and shall jointly choose successors;

(e) If the air board is established by an urban-county government, the mayor of the urban-county government or an officer of the urban-county government designated by the mayor shall serve as one (1) member of the board. The remaining five (5) members shall be appointed by the mayor. One (1) of the members appointed by the mayor shall live within a three (3) mile radius of the airport.

(5) The members of an air board composed of ten (10) members in a city other than a city of the first class and county jointly other than an urban-county government established pursuant to KRS Chapter 67A shall be appointed as follows:

(a) Five (5) members shall be appointed by the mayor of the city, without approval of the legislative body;

(b) Five (5) members shall be appointed by the county judge/executive without approval of the other members of the fiscal court.

(6) The members of an air board established jointly by a city of the first class and the county containing the first class city shall be composed of the mayor of the city of the first class and the county judge/executive of the county, and other members appointed as follows:

(a) Three (3) members shall be appointed by the mayor of the city of the first class;

(b) Three (3) members shall be appointed by the county judge/executive of the county, with the approval of the fiscal court; and

(c) Two (2) members, who shall be residents of the county containing a city of the first class or of counties contiguous thereto, shall be appointed by the Governor of the Commonwealth.

(d) If there is an incorporated alliance of incorporated neighborhood associations and fifth or sixth class cities, which represents citizens living within a five (5) mile radius of airport operations, the Governor shall appoint one (1) member of the executive board of an alliance as an additional member to the air board. If more than one (1) incorporated alliance exists, the Governor shall select the appointee from the executive boards of all the incorporated alliances.

(7) The members of an air board composed of ten (10) members established by an urban-county government shall be composed of the mayor of the urban-county government or an officer of the urban-county government designated by the mayor. The remaining nine (9) members shall be appointed by the mayor. Two (2) of the members appointed by the mayor shall live within a three (3) mile radius of the airport.

(8) Members of the board composed of six (6) members shall serve for a term of four (4) years each and until their successors are appointed and qualified. The initial appointments shall be made so that two (2) members are appointed for two (2) years, two (2) members for three (3) years, and two (2) members for four (4) years. Upon expiration of the staggered terms, successors shall be appointed for a term of four (4) years.

(9) Members of the board composed of ten (10) members in a city other than a city of the first class and county jointly shall serve for a term of four (4) years each and until their successors are appointed and qualified. The initial appointments made by the mayor and the county judge/executive shall be made so that one (1) member is appointed for two (2) years, two (2) members are appointed for three (3) years, and two (2) members are appointed for four (4) years. If an existing six (6) member board is being increased to a ten (10) member board, initial appointments of the four (4) new members shall be made so that the mayor and the county judge/executive, or the mayor if the board is established by an urban-county government, each appoint one (1) member for two (2) years and one (1) member for four (4) years. Upon expiration of the initial terms, successors shall be appointed for a term of four (4) years. In the case of a board established by an urban-county government, the term of the mayor for the urban-county government, or the officer of the urban-county government designated by the mayor, shall be coextensive with the term of the mayor.

(10) Members of the board composed of eleven (11) members and established ***or maintained*** jointly by a city of the first class and the county containing a city of the first class shall serve for a term of three (3) years each and until their successors are appointed and qualified. The terms of the mayor and the county judge/executive shall be coextensive with their terms of office. The mayor and the county judge/executive shall each make their initial appointments ***to a board established jointly by a city of the first class and the county containing a city of the first class*** so that one (1) member is appointed for one (1) year, one (1) member is appointed for two (2) years, and one (1) member is appointed for three (3) years. The Governor shall make the initial appointments so that one (1) member is appointed for two (2) years and one (1) member is appointed for three (3) years. Upon the expiration of the initial terms, successors shall be appointed for a term of four (4) years. ***Upon the establishment of a consolidated local government in a county containing a former city of the first class, seven (7) members of the board shall be appointed by the mayor of the consolidated local government pursuant to the provisions of Section 1 of this Act for a term of three (3) years. Incumbent members upon the establishment of the consolidated local government shall continue to serve as members of the board for the time remaining of their current term of appointment. The Governor shall appoint members pursuant to subsection 6(c) and (d) of this section. The mayor shall serve on the board for a term which shall be coextensive with his or her term of office. Incumbent members shall be***

eligible for reappointment upon the expiration of their terms. In a consolidated local government that takes effect on January 6, 2003, the terms of all board members shall continue to be for three (3) years. The members of the air board on January 6, 2003, shall continue to serve as members for the time remaining on their terms and shall be eligible for reappointment upon the expiration of their terms. The one (1) appointment, which occurs upon the transition of a county containing a city of the first class to a consolidated local government shall be made by the mayor pursuant to the provisions of Section 1 of this Act within sixty (60) days after the establishment of the consolidated local government. As the terms of the appointments made while the air board was governed by a city of the first class and a county containing the city of the first class expire, the mayor and the Governor shall respectively make their new appointments.

(11) Members of the board shall serve without compensation but shall be allowed any reasonable expenses incurred by them in the conduct of the affairs of the board. The board shall, upon the appointment of its members, organize and elect officers. The board, except for a board composed of eleven (11) members and established jointly by a city of the first class and the county containing a city of the first class ***or a consolidated local government***, shall choose a chairman and vice chairman who shall serve for terms of one (1) year. Where the board is composed of eleven (11) members and established jointly by a city of the first class and the county containing a city of the first class, the mayor of the city of the first class and the county judge/executive shall jointly appoint the chairman from among the membership of the board. ***In a consolidated local government, the mayor shall appoint the chairman from among the membership of the board.*** The board shall also choose a secretary-treasurer who may or may not be a member of the board. The board may fix a salary for the secretary-treasurer and the secretary-treasurer shall execute an official bond to be set and approved by the board, and the cost of the bond shall be paid by the board.

(12) The board may employ necessary counsel, agents, and employees to carry out its work and functions and prescribe rules and regulations as it deems necessary.

(13) The secretary-treasurer shall keep the minutes of all meetings of the board and shall also keep a set of books showing the receipts and expenditures of the board. The secretary-treasurer shall preserve on file duplicate vouchers for all expenditures and shall present to the board, upon request, complete reports of all financial transactions and the financial condition of the board. The books and vouchers shall at all times be subject to examination by the legislative body or bodies by whom the board was created. The secretary-treasurer shall transmit at least once annually a detailed report of all acts and doings of the board to the legislative body or bodies by whom the board was created.

(14) In the event that a joint air board is created by cities, counties, or both, and thereafter a city or county desires to withdraw from participation, then the remaining participants may jointly choose a successor member or members of the board. A local government wanting to withdraw from participation in the board shall not be entitled to return of any moneys or property advanced to the board.

(15) A quorum for the transacting of the business of a six (6) member board shall consist of four (4) members, a ten (10) member board shall consist of six (6) members, and an eleven (11) member board shall consist of six (6) members. Meetings of the board may be called by the chairman or by four (4) members. In case of tie voting by the board, the issue shall be deemed to have failed passage.

(16) A board member may be replaced by the appointing authority upon a showing to the authority of misconduct as a board member or upon conviction of a felony. A board member shall not hold any official office with the appointing authority, except for the mayor of a city of the first class and the county judge/executive on a board made up of eleven (11) members and established jointly by a city of the first class and the county containing a city of the first class, or the mayor of an urban-county government ***or a consolidated local government,*** or an officer of the urban-county government designated by the mayor on a board established by an urban-county government.

Section 198. KRS 198A.067 is amended to read as follows:

Before the corporation provides financing for construction of multifamily housing of twelve (12) units or more, an ordinance must be enacted by the fiscal court, city***, consolidated local government,*** or urban-county government in whose territorial limits the construction is to occur.

Section 199. KRS 198B.290 is amended to read as follows:

In counties with cities of the first class ***or a consolidated local government*** and cities within those counties, a permit to rebuild a commercial business on property contiguous to a river, and a permit to rebuild single-family dwellings on properties contiguous to a river, shall be issued if the construction plans meet the requirements of any local floodplain ordinance.

Section 200. KRS 210.040 is amended to read as follows:

The Cabinet for Health Services shall:

(1) Exercise all functions of the state in relation to the administration and operation of the state institutions for the care and treatment of persons with mental illness;

(2) Establish or acquire, in accordance with the provisions of KRS 56.440 to 56.550, other or additional facilities for psychiatric care and treatment of persons who are or may become state charges;

(3) Cooperate with other state agencies for the development of a statewide mental health program looking toward the prevention of mental illness and the post-institutional care of persons released from public or private mental hospitals;

(4) Provide for the custody, maintenance, care, and medical and psychiatric treatment of the patients of the institutions operated by the cabinet;

(5) Provide psychiatric consultation for the state penal and correctional institutions, and for the state institutions operated for children or for persons with mental retardation;

(6) Administer and supervise programs for the noninstitutional care of persons with mental illness;

(7) Administer and supervise programs for the care of persons with chronic mental illness, including but not limited to provision of the following:

  (a) Identification of persons with chronic mental illness residing in the area to be served;

  (b) Assistance to persons with chronic mental illness in gaining access to essential mental health services, medical and rehabilitation services, employment, housing and other support services designed to enable persons with chronic mental illness to function outside inpatient institutions to the maximum extent of their capabilities;

  (c) Establishment of community-based transitional living facilities with twenty-four (24) hour supervision and community-based cooperative facilities with part-time supervision; provided that, no more than either one (1) transitional facility or one (1) cooperative facility may be established in a county containing a city of the first class ***or consolidated local government*** with any funds available to the cabinet;

  (d) Assurance of the availability of a case manager for each person with chronic mental illness to determine what services are needed and to be responsible for their provision; and

  (e) Coordination of the provision of mental health and related support services with the provision of other support services to persons with chronic mental illness;

(8) Supervise private mental hospitals receiving patients committed by order of a court.

Section 201. KRS 211.1751 is amended to read as follows:

As used in KRS 211.1751 to 211.1755:

(1) "Agency" means a local health department established pursuant to the provisions of KRS Chapter 212, excluding a health department in a county containing a city of the first class, ***a consolidated local government,*** an urban-county health department, or an independent district health department.

(2) "Classification plan" means the system of classes and job descriptions, and the process for the installation and maintenance of the classification plan.

(3) "Compensation plan" means a series of salary ranges to which classes of positions are assigned so that classifications evaluated as approximately equal may be assigned to the same salary range.

(4) "Council" means the Local Health Department Employment Personnel Council created in KRS 211.1752.

(5) "Department" means the Department for Public Health within the Cabinet for Health Services.

Section 202. KRS 211.370 is amended to read as follows:

The commissioner of the Department for Public Health shall, upon written request from a local board of health, authorize the local board of health to serve as its agent to issue permits for on-site sewage disposal systems within that area of local board jurisdiction. As agent, the authorized local board of health shall act for the cabinet in issuing permits and granting variances for on-site sewage disposal systems. Actions by the local board of health shall comply with the regulations established by the cabinet relating to on-site sewage disposal systems. The local board of health shall include in the written request a procedure for administering this section. The local board of health may adopt regulations relating to the proper operation and maintenance of on-site sewage disposal systems. In counties containing a city of the first class ***or a consolidated local government*** and in urban-counties, the local board of health may adopt regulations relating to the proper construction, installation, and alteration of on-site sewage disposal systems which are more stringent than the regulations adopted by the cabinet.

Section 203. KRS 212.350 is amended to read as follows:

(1) In each county of the Commonwealth of Kentucky in which there is located a city of the first class ***or a consolidated local government***, there is hereby created a board of health which board shall be a body politic and corporate, and shall be known as the ".... (name of city of the first class) and .... (name of county) ***or ..... (name of the consolidated local government)*** County Board of Health" hereinafter called the "board," which board shall have jurisdiction throughout such county, including all municipalities in said county with respect to and in accordance with the provisions of KRS 212.350 to 212.620. Wherever the words "city" and "mayor" are used in KRS 212.350 to 212.620 they shall mean such city of the first class ***or consolidated local government***, and the mayor thereof. Said board may, in its corporate name, sue and be sued, contract and be contracted with and acquire real, personal and mixed property by deed, purchase, gift, devise, lease, condemnation or otherwise, and dispose of same; and may make appropriate rules and regulations and do all things reasonable or necessary effectively to carry out the work and properly to perform the duties intended or required by KRS 212.350 to 212.620. When and after the board herein created is organized as herein provided, and except as otherwise provided by law, said board shall succeed to and be vested with all of the functions, obligations, powers and duties now being exercised by the county board of health[~~ of such county~~], any department of public health[~~ of such city~~], and by any board of tuberculosis hospital in such county; and thereupon ***the***[~~said county~~] board of health and ***the***[~~said~~] department of

health and ***the***~~[said]~~ board of tuberculosis hospital shall cease to exist, and all laws and amendments of said laws, relating to and governing the aforesaid county board of health, department of public health, and board of tuberculosis hospital, in conflict with the provisions of KRS 212.350 to 212.620, shall, to the extent of such conflict, stand and be repealed.

(2) Notwithstanding KRS 212.350 to 212.625, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the county and such city of the first class shall agree that the county shall provide all staff support, including a director of health, to the board of health through county officers, assistants, clerks, deputies and employees. In such case, all officers, employees and staff of the board of health and the department of health shall be deemed county employees and shall be subject to the control of fiscal court. At the time the compact takes effect the officers, employees and staff of the board of health and the department of health shall be transferred to the service of county government; provided that all such employees who at such time are in the classified service shall be continued in a classified service administered by county government. All functions, obligations, powers and duties now vested in the board of health shall continue to be vested in the board unless changed by ordinance of the fiscal court of such county. ***Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing that city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the requirements of this subsection pertaining to county government shall be assumed by the consolidated local government.***

Section 204. KRS 212.360 is amended to read as follows:

(1) All property, real, personal and mixed, belonging to such county or city and now being used exclusively and directly by and for the county board of health of such county and the department of public health of such city, in the performance of duties connected with the maintenance of the public health, including, but without being limited thereto, city or county hospitals, public health clinics, all the equipment in such institutions, and all other property of every character or description now used in public health work in and by said city and county organizations, and all property, real, personal and mixed, belonging to any board of tuberculosis hospital in such county, is hereby transferred to said board created under KRS 212.350, and said city, county and board of tuberculosis hospital shall take all necessary and proper steps to effect the legal transfer of title and possession of all such property to said board. All deeds to such property shall be recorded in the county where the property is located. Said board shall assume all existing liabilities of said board of tuberculosis hospital and shall liquidate such liabilities in the same manner and on the same terms as would have been done by said board of tuberculosis hospital.

(2) In the event that it is deemed desirable or advisable by the city, county***,*** and board that any other division of the city or county or any other governmental agency, including any institution, should be taken over and placed under the control and management and supervision of the board, then and in that event, such division, agency, or institution may be taken over under such terms and conditions as to its management, operation and maintenance as the said city, by ordinance, the said county and the board, by respective resolutions and agreements, may authorize and direct.

(3) Upon the establishment of a consolidated local government in a county having a board of health previously formed by the city and county, all property, real, personal, and mixed, belonging to the board of health shall remain the property of the board of health as renamed under KRS 212.350.

Section 205. KRS 212.380 is amended to read as follows:

(1) ***Except in a county containing a consolidated local government,*** said board shall be composed of ten (10) members, two (2) of whom shall be the mayor of such city, and the county judge/executive of such county, as members ex officio, and four (4) of whom shall be appointed by the mayor of such city and four (4) of whom shall be appointed by the county judge/executive of such county with the approval of the fiscal court. Each appointive member shall be not less than thirty (30) years of age, intelligent, discreet, and shall have been a continuous resident of such county for at least two (2) years prior to the date of his or her appointment. At least one (1) and not more than three (3) of said appointive members shall be physicians, one (1) of said appointive members shall be a dentist, and at least one (1) of said appointive members shall be a registered nurse. All appointive members shall be eligible for reappointment.

(2) At the expiration of each of the terms of office of said eight (8) appointive members, the successor to each member shall be appointed by said county judge/executive and said mayor for a term of office of four (4) years and until his successor is appointed and qualified.

(3) The two (2) appointments which increase the appointed members from six (6) to eight (8) shall both occur on July 1, 1974, one (1) of which shall be for a term expiring on June 30, 1978, the other of which shall be for a term expiring on June 30, 1975. Each subsequent appointment to the board shall be for a term of four (4) years.

(4) Notwithstanding subsection (2) of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the terms of the members on the board shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, the mayor, and county judge/executive with the approval of the fiscal court, shall adjust the terms of the sitting members so that the terms of two (2) each of their appointments expire in one (1) year, the term of one (1) each of their appointments expire in two (2) years and the term of one (1) each of their appointments expire in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years.

(5) Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing that city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the board shall be

composed of ten (10) members, the mayor and nine (9) members who shall be appointed to the board of health by the mayor of the consolidated local government pursuant to the provisions of Section 1 of this Act for a term of three (3) years. Incumbent board members, upon the establishment of the consolidated local government, shall continue to serve as members of the board for the time remaining of their current term of appointment and until their successor is appointed and qualified. The mayor shall serve on the board for a term which shall be coextensive with his or her term of office.

Section 206. KRS 212.390 is amended to read as follows:

(1) Any vacancy on the board occurring by reason of death, resignation, disqualification, removal, or otherwise, of any appointive member shall be filled ***in the same manner as the original appointment***~~[by appointment by the mayor and county judge/executive]~~ for the balance of the term of the member whose place is so vacated. The ***appointing authority is***~~[mayor and county judge/executive are]~~ hereby given the exclusive power and authority to determine and declare when a vacancy exists.

(2) ***Except in a county containing a consolidated local government,*** if said county judge/executive and said mayor fail within said thirty-day period to make an appointment to fill any one (1) or more of the five (5) original positions of membership on said board, then and in that event the appointment to fill any such original position shall be made by the majority vote of a board to be composed of the county judge/executive of such county, the mayor of such city, and the president of the board of tuberculosis hospital in such county and city. Thereafter, in the event said county judge/executive and said mayor fail to make an appointment to fill any vacancy on said board within thirty (30) days after such vacancy, for any reason, occurs, the board itself shall have the power and is hereby authorized to make the appointment to fill such vacancy. ***In a county containing a consolidated local government, the mayor shall fill a vacancy to the board no later than thirty (30) days after the occurrence of the vacancy. In the event the mayor fails to make the appointment within the thirty (30) days, the appointment shall be made by the remaining members of the board.***

(3) If the board has advance knowledge that a vacancy on the board will for any reason occur, the board shall, in advance of the occurrence of such vacancy (thirty (30) days in advance if possible) report in writing to the ***appointing authority***~~[mayor and county judge/executive]~~ the facts pertaining to such approaching vacancy. In any case where the board does not have advance knowledge of a pending vacancy, said board upon the occurrence of such vacancy shall forthwith in writing report such vacancy to the ***appointing authority***~~[mayor and county judge/executive]~~. After said vacancy or vacancies have been so reported the procedure for filling such vacancy or vacancies shall be the same as the general procedure hereinabove set forth.

(4) Resignation by a member of the board shall be in writing addressed and submitted to the ***appointing authority***~~[mayor and county judge/executive]~~ and a copy thereof furnished to the chairman of the board.

Section 207. KRS 212.432 is amended to read as follows:

Notwithstanding the provisions of KRS 61.510 to 61.705 (Chapter 110, 1956 Acts of the General Assembly of Kentucky and amendments thereto) and KRS 78.510 to 78.852, on July 1, 1962, all regular full-time present and future public health employees of any joint city-county health department ***or board of health*** located in a county containing a city of the first class ***or a consolidated local government*** shall be included within the provisions of the state retirement system.

Section 208. KRS 212.600 is amended to read as follows:

All municipalities in any county of this Commonwealth in which county there is located a city of the first class ***or a consolidated local government*** are hereby made subject to the provisions of KRS 212.350 to 212.620, and it shall be the duty of the board created in KRS 212.350 to make and enforce all reasonable regulations controlling or affecting the health of citizens and residents of said county, including all municipalities therein, in conformity with the provisions of KRS 212.350 to 212.620 and the laws of the Commonwealth of Kentucky, the rules and regulations of the Cabinet for Health Services of Kentucky, and the ordinances of said municipalities now or hereafter in effect and not in conflict with the provisions of KRS 212.350 to 212.620. Such regulations shall, as nearly as may be practicable, be uniform throughout the county, both within and without the said municipalities; provided, however, that nothing contained in this section shall be construed to prevent the board from making specific health regulations applying only to such section or sections of said county as may be deemed to require special treatment. The board shall have power and authority to examine into all nuisances, sources of filth, and causes or probable causes of sickness, which may in its opinion be injurious to the health of the residents of such county or of any section or sections thereof.

Section 209. KRS 212.750 is amended to read as follows:

(1) It is the intent of this section and KRS 212.755, inter alia, to create a public health taxing district via operation of law in every county of the Commonwealth that has not heretofore created same except in counties containing cities of the first class ***or consolidated local government***.

(2) In all counties where a county or city-county health department has been established except in counties containing a city of the first class ***or a consolidated local government***, and a public health taxing district has not been established pursuant to the provisions of KRS 212.720 to 212.740, a public health taxing district is hereby declared to be created upon June 13, 1968. The members of the county, or city-county board of health shall, by virtue of their office, constitute and be the governing body of the public health taxing district and shall perform the duties attendant thereto in addition to their duties as members of the county, or city-county board of health. The officers of the county or city-county board of health shall be

the officers of the public health taxing district.

(3) Nothing in this section and KRS 212.755 shall in any way abridge the rights of two (2) or more counties from establishing a district health department.

Section 210. KRS 212.990 is amended to read as follows:

(1) Any owner or occupant who fails to comply with an order made under the provisions of subsection (1) of KRS 212.210 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100) and each day's continuance of the nuisance, source of filth or cause of sickness, after the owner or occupant has been notified to remove it, shall be a separate offense.

(2) Any person who violates KRS 212.715 or any rule or regulation adopted by any ***consolidated local government,*** city, county, or city-county board of health, except as otherwise provided by subsection (3) of this section for counties containing cities of the first class ***or consolidated local government***, shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100) for each day the violation continues.

(3) The violation of any health regulation promulgated by the city-county board of health or of any order made by the board under KRS 212.350 to 212.620, directing the abatement of a nuisance, source of filth or cause or probable cause of sickness, is hereby declared to be a misdemeanor, and any person, firm or corporation, or member of a firm or officer or director of a corporation, upon conviction thereof shall be fined not less than five dollars ($5) nor more than one hundred dollars ($100) for each such offense. If any offense is continued for more than one (1) day, each day upon which such offense occurs or is continued shall be considered and constitute a separate offense and a separate fine may be imposed therefor.

(4) Any physician who fails to comply with the provisions of KRS 212.343, upon conviction thereof shall be fined not more than five hundred dollars ($500).

(5) Failure to procure the informed consent of those required to give their consent pursuant to KRS 212.345, prior to performing a nontherapeutic sterilization shall be punishable by imprisonment in the county jail not to exceed one year or a fine not to exceed one thousand dollars ($1,000), or both.

(6) Any physician violating KRS 212.347 shall be imprisoned in the county jail not to exceed one (1) year or shall pay a fine not to exceed one thousand dollars ($1,000), or both.

Section 211. KRS 226.060 is amended to read as follows:

The chief of police of a city of the first class or the chief of police of a county containing a city of the first class***, or the chief of police of a consolidated local government,*** and persons acting by his orders may examine the books of any pawnbroker or his clerk, if they deem it necessary when in search of stolen property. Any person who has in his possession a pawnbroker's ticket issued by a pawnbroker in a city of the first class or in a county containing a city of the first class ***or a consolidated local government*** shall, when accompanied by a policeman or by an order from the chief or captain of police, be permitted to examine property purporting to be pawned by that ticket. No property shall be removed from the possession of any pawnbroker without the process of law required by the existing laws of the state, or the laws and ordinances of the ***local government***[~~city or county~~] regulating pawnbrokers.

Section 212. KRS 230.377 is amended to read as follows:

(1) Other provisions of the Kentucky Revised Statutes notwithstanding, a track may apply to the commission for simulcasting and intertrack wagering dates. Applications shall be submitted in accordance with KRS 230.300. The commission shall not approve the establishment or relocation of a receiving track within a radius of seventy-five (75) miles of a race track duly licensed as of July 15, 1992, without the prior written consent of the licensed track within whose seventy-five (75) mile radius the new receiving track would be located.

(2) On or before November 1 of each year, the commission shall meet and award intertrack wagering dates to all tracks for the entire succeeding calendar year. In a geographic area containing more than one (1) track within a fifty (50) mile radius of another track, intertrack wagering shall be limited to simulcasting and wagering on racing of the same breed of horse as the receiving track was licensed to race on or before July 15, 1998.

(3) The commission shall approve no more than nine (9) tracks for participation in horse racing, intertrack wagering, and simulcasting. Any approval by the commission of a change in location of these tracks shall be subject to the local-approval process contained in KRS 230.380.

(4) A track may by administrative regulation be required to simulcast its races to one (1) or more receiving tracks approved for simulcasting and intertrack wagering, as a prerequisite for the issuance of a license pursuant to KRS 230.300, provided that:

(a) Each track shall be permitted to exempt one (1) day of racing from simulcasting to both receiving tracks and simulcast facilities, at its discretion;

(b) Tracks in a county containing a city of the first class ***or a consolidated local government*** and tracks in an urban-county government shall not be required to simulcast to each other or to any other facility in those counties. This provision shall not be construed as requiring tracks within the same county to simulcast to each other; and

(c) In the absence of a contract between a host track and a receiving track, the commission shall be split as provided for in KRS 230.378(3).

(5) A track may receive simulcasts and conduct interstate wagering thereon subject to the following limitations which shall be in addition to the limitations set forth in KRS 230.3771:

(a) A track licensed to conduct thoroughbred racing may receive simulcasts and conduct interstate wagering on all thoroughbred horse races designated as graded stakes races by the Graded Stakes Committee of the Thoroughbred Owners and Breeders Association, Inc., without further consents or approvals.

(b) A track licensed to conduct harness racing may receive simulcasts and conduct interstate wagering on all harness horse races (both final and elimination) having a final purse in excess of seventy-five thousand dollars ($75,000) without further consents or approvals.

(c) A track which applies to the commission to receive an interstate race of a different breed than the breed for which it is licensed by the commission shall receive any simulcast of an interstate race through the intertrack wagering system upon approval by the commission.

(d) A track may receive simulcasts of special event races conducted in other states or foreign countries which are determined by the commission to be of sufficient national or international significance or interest to warrant interstate wagering and if the simulcast of these races has been approved by the Kentucky Thoroughbred Owners and Breeders Association, Inc., the Kentucky Division of the Horseman's Benevolent and Protective Association, for thoroughbred races, and the Kentucky Harness Horsemen's Association for harness racing, and any track conducting live horse races of the same breed at the same time as the simulcast race.

(e) A track may also receive simulcasts and conduct interstate wagering on thoroughbred horse races other than those described in paragraphs (a) and (d) of this section if the simulcast of these races has been approved by the Kentucky Thoroughbred Owners and Breeders Association, Inc., and the Kentucky Horsemen's Benevolent and Protective Association, for thoroughbred races, and the Kentucky Harness Horsemen's Association, or its successor, for harness racing.

(f) The consent required by paragraph (e) of this subsection or by subsections (1)(g) and (2)(g) of KRS 230.3771 shall not be withheld:

1. For any reason not specifically related to financial harm to live horse racing; or

2. As a condition to the granting of any contractual or other concession not specifically related to the effects of interstate simulcasting on live horse racing in this Commonwealth, taken as a whole.

(g) A host track located in this state may receive simulcasting of not more than two (2) full cards of racing from another state, if both tracks race horses of the same breed and if:

1. The race date was previously granted by the Kentucky Racing Commission to conduct live racing at the track located in this state;

2. Live racing was canceled due to weather conditions; and

3. The consent required by subsection (5)(d) of this section is obtained.

(h) The in-state track receiving the simulcast specified in paragraph (g) of this subsection shall offer that simulcast to all participating tracks and simulcast facilities in the intertrack wagering system.

(i) All interstate simulcasting shall be conducted in accordance with applicable federal laws.

(6) The commission may promulgate necessary and reasonable administrative regulations for the purpose of administering the conduct of intertrack or interstate wagering and regulating the conditions under which wagering shall be held and conducted. Administrative regulations shall provide for the prevention of practices detrimental to the public interest and to impose penalties for violations. All administrative regulations shall be in conformity with the provisions of KRS Chapter 13A, KRS 138.510, and this chapter.

(7) Subsections (2) and (3) of this section shall apply only to intertrack wagering dates awarded for calendar year 1993 and thereafter, and any unresolved intertrack wagering dates for calendar year 1992 shall be awarded pursuant to applicable provisions of law in effect immediately prior to March 30, 1992.

Section 213. KRS 238.555 is amended to read as follows:

(1) No person shall operate a charitable gaming facility unless the person is licensed under the provisions of this chapter. The department shall charge a license fee not to exceed two thousand five hundred dollars ($2,500). Specific license fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulation and based on the number of sessions which the facility holds per week or other applicable factors or combination of factors. Charitable gaming may be conducted in a charitable gaming facility only by a licensed charitable organization in accordance with the provisions of this chapter.

(2) In the application process, an applicant for a charitable gaming facility license shall submit the following information:

(a) The address of the facility;

(b) A description of the facility to include square footage of the gaming area, capacity levels, and available parking;

(c) The names, addresses, dates of birth, and Social Security numbers of all individuals employed by or contracted with the applicant to manage the facility or provide other authorized services;

(d) The name, address, date of birth, and Social Security number of any individual who has a ten percent (10%) or greater financial interest in the facility;

(e) A copy of the lease agreement used by the applicant; and

(f) Any other information the department deems appropriate.

(3) No owner, officer, employee, or contractee of a licensed charitable gaming facility or an affiliate, or any member of the immediate family of any officer, employee, or contractee of a licensed charitable gaming facility or an affiliate shall, concerning a lessee:

(a) Manage or otherwise be involved in the conduct of charitable gaming;

(b) Provide bookkeeping or other accounting services related to the conduct of charitable gaming;

(c) Handle any moneys generated in the conduct of charitable gaming;

(d) Advise a licensed charitable organization on the expenditure of net receipts;

(e) Provide transportation services in any manner to patrons of a charitable gaming activity;

(f) Provide advertisement or marketing services in any manner to a licensed charitable organization;

(g) Provide, coordinate, or solicit the services of personnel or volunteers in any manner;

(h) Influence or require a licensed charitable organization to use a certain distributor or any particular gaming supplies; or

(i) Donate or give any prize to be awarded in the conduct of charitable gaming.

(4) A licensed charitable gaming facility shall execute a lease agreement with each licensed charitable organization that desires to conduct charitable gaming at the facility. The licensed charitable gaming facility shall agree in the lease to provide gaming space, utilities, insurance for the premises, parking, tables and chairs, and other nongaming equipment necessary for the conduct of charitable gaming, adequate storage space, security, and janitorial services. The costs of the goods and services provided shall be itemized in the lease. A licensed charitable organization may elect to provide for itself any of the goods and services that a charitable gaming facility is required to provide under this subsection, provided these arrangements are clearly noted in the lease agreement, and provided the total compensation to be paid the charitable gaming facility is reduced commensurate with the cost of the goods and services as itemized in the lease. The amount of rent, goods, and services charged shall be reasonable and shall be based on prevailing market values in the general locality for the goods and services to be provided. Rent shall not be based in whole or in part, on a percentage of gross receipts or net proceeds derived from the conduct of charitable gaming or by reference to the number of people in attendance. The department by administrative regulation may establish standards for the determination of prevailing market values. A copy of each signed lease agreement shall be filed with the department. The provisions of this subsection shall apply to any lease agreement for a facility where charitable gaming is to be conducted, whether or not it is with a licensed charitable gaming facility.

(5) The number of bingo sessions conducted at a charitable gaming facility shall be limited to the following:

(a) No more than eighteen (18) sessions per week if the charitable gaming facility is located in a city of the first class, in a city of the second class, in an urban-county***, in a consolidated local government,*** or charter county government, or in a county containing a city of the first class or second class;

(b) No more than eight (8) sessions per week if the charitable gaming facility is located in a city of the third class, fourth class, fifth class, or sixth class, or in a county that does not contain a city of the first class or second class.

(6) A licensed charitable gaming facility shall report at least quarterly to the department and shall provide any information concerning its operation that the department may require.

(7) A charity fundraising event at which special limited charitable games are played may be conducted at a licensed charitable gaming facility, but no licensed charitable gaming facility shall be permitted to hold more than one (1) such event per week or more than seven (7) per year.

(8) A licensed charitable gaming facility shall conspicuously display a sign bearing the name and the license number of the charitable organization that is conducting charitable gaming activities in the facility.

(9) The license to operate the charitable gaming facility shall be prominently displayed on or in the premises where charitable gaming activity is being conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the department, law enforcement officials, and other interested officials.

Section 214. KRS 241.075 is amended to read as follows:

(1) The State Alcoholic Beverage Control Board shall, for the purpose of regulating the location of retail package liquor and retail drink licenses in cities of the first class ***or consolidated local governments***, divide such cities ***or consolidated local governments*** into "downtown business areas" and "combination business and residential areas."

(2) No retail package liquor or retail drink license shall be granted or issued to any licensee who proposes to sell retail package liquor or liquor by the drink at a location within seven hundred (700) feet of the location of any similar

establishment in any combination business and residential area, nor shall such license be granted or issued to any licensee who proposes to operate at a location in a combination business and residential area within seven hundred (700) feet of a similar establishment located in a downtown business area. This section shall not affect location of such establishments in downtown business areas of such cities ***or consolidated local governments***.

(3) The distance between location of similar establishments as prescribed by this section shall be measured by following the shortest route of ordinary pedestrian travel along public thoroughfares from the nearest point of any present location of any such similar place of business to the nearest point of any proposed location of any such place of business. The measurement shall be taken from the entrance of the existing licensed premises to the entrance of any proposed location.

(4) The location of all establishments licensed to sell at retail distilled spirits by the package or by the drink, or both, on June 17, 1954 shall not be affected by the terms of this section and this section shall not apply to existing licensed locations or to the renewal of licenses therefor, or to transfers thereof. The distance limitation prescribed by this section shall not affect any existing licensed location, nor the right of the owner thereof to renew or transfer the license for such location. The location of any such existing license shall not be transferred to a new location in violation of this section, except that the location of any presently existing license or renewal thereof in case of destruction of property or loss of lease through failure of the landlord to renew such lease may be transferred to a location which is not closer than half the distance between the existing licensed premises and the nearest similar licensed premises.

Section 215. KRS 241.160 is amended to read as follows:

The legislative body of any city of the first, second, third or fourth class ***or a consolidated local government*** in which traffic in alcoholic beverages is not forbidden by KRS Chapter 242 shall by ordinance create the office of city alcoholic beverage control administrator, or shall assign the duties of this office to a presently established city office.

Section 216. KRS 241.170 is amended to read as follows:

(1) The city administrator in each city of the first class ***or the administrator in a consolidated local government***, and such investigators and clerks as are deemed necessary for the proper conduct of his office, shall be appointed by the mayor. The city administrator in each city of the first class ***or the administrator in a county containing a consolidated local government***, and his investigators, shall have full police powers of peace officers, and their jurisdiction shall be coextensive with ***boundaries of the***[~~such~~] city ***of the first class or the boundaries of the county in a county containing a consolidated local government***. They may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant. ***If any city of the second, third, or fourth class in a county containing a consolidated local government appoints its own administrator under KRS 241.160, the administrator of a consolidated local government in that county shall have jurisdiction over only that portion of the county which lies outside the corporate limits of such a city, unless the department determines that the city does not have an adequate police force of its own or pursuant to KRS 70.540, 70.150, 70.160, and 70.170.***

(2) The city administrator in each city of the second, third or fourth class shall be appointed by the city manager if there is one. If there is no city manager, the city administrator shall be appointed by the mayor.

(3) No person shall be ***an***[~~a city~~] administrator, an investigator***,*** or an employee of the city ***or a consolidated local government*** under the supervision of the[~~ city~~] administrator, who would be disqualified to be a member of the board under KRS 241.100.

Section 217. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

(1)	Distiller's license, per annum	$2,500.00
(2)	Rectifier's license, per annum	$2,500.00
(3)	Blender's license, per annum	$2,500.00
(4)	Vintner's license, per annum	$1,000.00
(5)	Small winery license, per annum	$100.00
	(a) Small winery off-premises retail license, per annum	$25.00
(6)	Wholesaler's license, per annum	$2,000.00
(7)	Retail package license, per annum:	
	(a) In counties containing cities of the first class ***or a consolidated local government***	$800.00
	(b) In counties containing cities of the second class	$700.00
	(c) In counties containing cities of the third class	$600.00
	(d) In counties containing cities of the fourth class	$500.00
	(e) In all other counties	$400.00
(8)	Retail drink license, motel drink license, restaurant drink license, or supplemental bar license, per annum:	
	(a) In counties containing cities of the first class ***or a consolidated local government***	$1,000.00

(b)	In counties containing cities of the second class	$700.00
(c)	In counties containing cities of the third class	$600.00
(d)	In counties containing cities of the fourth class	$500.00
(e)	The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.	
(9)	Transporter's license, per annum	$100.00
(10)	Dining car license, per annum	$100.00
(11)	Special nonbeverage alcohol vendor's license, per annum	$50.00
(12)	Special industrial alcohol license, per annum	$50.00
(13)	Special nonindustrial alcohol license, per annum	$50.00
(14)	Special agent's or solicitor's license, per annum	$25.00
(15)	Special storage or warehouse license and bottling house storage license, per annum	$500.00
(16)	Special temporary liquor license, per event	$100.00
(17)	Special private club license, per annum	$300.00

The fee for each special private club license shall be the fee set out in this subsection; however, there shall be no charge for each special private club license issued in excess of six (6) that is issued to the same licensee at the same premises.

(18)	Special Sunday retail drink license, per annum	$500.00
(19)	Nonresident, special agent or solicitor's license, per annum	$100.00
(20)	Transport permit, nonresident license, per annum	$100.00
(21)	Through transporter's license, per annum	$100.00
(22)	Freight forwarder's license, per annum	$100.00
(23)	Restaurant wine license, per annum	$500.00
(24)	Farm winery license, per annum	$100.00
	(a) Farm winery, off-premises retail outlet license, per annum	$25.00
(25)	Special temporary wine license, per event	$50.00
(26)	Caterer's license, per annum	$800.00
(27)	Souvenir retail liquor license, per annum	$500.00
(28)	Special temporary distilled spirits and wine auction license, per event	$100.00
(29)	Airport drink license, per annum	$1,000.00
(30)	Convention center or convention hotel complex license, per annum	$5,000.00
(31)	Extended hours supplemental license, per annum	$2,000.00
(32)	Horse race track license, per annum	$2,000.00
(33)	Automobile race track license, per annum	$2,000.00
(34)	Air or rail system license, per annum	$2,000.00
(35)	Riverboat license, per annum	$1,000.00
(36)	Bottling house license, per annum	$1,000.00
(37)	Hotel in-room license, per annum	$200.00
(38)	Bonded warehouse license, per annum	$1,000.00
(39)	Air transporter liquor license, per annum	$500.00
(40)	Sampling license, per annum	$100.00
(41)	Replacement or duplicate license	$25.00

(42) Other special licenses the board finds necessary for the proper regulation and control of the traffic in distilled spirits and wine and provides for by administrative regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

A nonrefundable application fee of fifty dollars ($50) shall be charged to process each new application under this section, except for subsections (5), (9), (11), (12), (13), (14), (16), (19), (20), (21), (22), (24), (25), (28), and (41). The application fee shall be applied to the licensing fee if the license is issued; otherwise it shall be retained by the department.

Section 218. KRS 243.050 is amended to read as follows:

(1) The department may issue a railroad system license to a railroad company upon the payment of the required fee. This license tax shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages.

(2) The department may issue a commercial airlines system license to a commercial airlines system or charter flight system upon the payment of the required fee. This license fee shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages and the license may be renewed annually. The license shall authorize the licensee to sell distilled spirits and wine by the drink and by miniature bottle, and malt beverages, upon regularly-scheduled or charter flights of the licensee, in and out of the State of Kentucky. The license shall authorize the licen~~se~~e to store alcoholic beverages for retail sale at a location or locations, if operating from more than one airport in Kentucky, as designated on the license application.

(3) The department may issue a transporter's license to a commercial airline system, a charter flight system, or a commercial cargo system, upon the payment of the required fee. This license may be renewed annually. The license shall authorize the licensee to transport distilled spirits and wine and malt beverages, into and out of the State of Kentucky, upon regularly-scheduled or charter flights of the licensee. The license shall authorize, for the purpose of transportation, the storage of alcoholic beverages at a location or locations, if operating from more than one airport in Kentucky, as designated on the license application. This license shall authorize an airline to transport if both the consignor and consignee in each case are authorized by the laws of the states of their residence to sell, purchase, ship, or receive the alcoholic beverages.

(4) The department may issue a convention center or convention hotel complex license for the retail sale of distilled spirits, wine, and malt beverages for consumption on the premises to a convention center or hotel having seating capacity of one thousand (1,000) or more persons. The license shall cover all alcoholic beverage sales on the premises, except that a separate hotel in-room service license shall be required, where applicable. An extended supplement license under subsection (5) of this section may also be issued where applicable. The convention center or convention hotel complex license shall be a nonquota license and shall not be transferable to other premises. The provisions of this subsection shall not apply to convention center licenses or the renewal thereof, other than those in a city of the first class or a county containing a city of the first class ***or a consolidated local government***, if the original license was issued prior to July 15, 1998.

(5) Where it is determined by the department to be in the best interest of promoting tourism, conventions, and the economic development of Kentucky or any part thereof, the department may issue a supplemental license for the retail sale of alcoholic beverages by the drink at convention centers, at horse race tracks licensed to conduct a race meeting under KRS Chapter 230, at commercial airports through which more than five hundred thousand (500,000) passengers arrive or depart annually, and at automobile race tracks having a seating capacity of at least thirty thousand (30,000) people. Upon application by the holder of a retail alcoholic beverage license at a convention center, convention hotel complex, horse race track, automobile race track, meeting the requirements of this subsection, or commercial airport as provided above, the department may establish the days when the supplemental license will be valid at the specific location, including Sundays after 1 p.m. The supplemental license fee shall be established, and shall be in addition to all other licenses and fees due by the holder in connection with the retailing of alcoholic beverages. The department may~~,~~ by administrative regulation or special conditions of the supplemental permit, establish such restrictions on the use of the license as will insure that it will be primarily for the benefit of the convention business, the horse racing industry, passengers at large commercial airports, and the automobile racing industry.

Section 219. KRS 243.060 is amended to read as follows:

(1) The fiscal court of each county ***or a consolidated local government*** in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may impose license fees for the privilege of trafficking in alcoholic beverages. These licenses may be issued by the county ***or consolidated local government*** administrator. The license fees shall not exceed the following:

(a) Retail package licenses, per annum:

1.	In counties containing cities of the first class ***or a consolidated local government***	$1,200.00
2.	In counties containing cities of the second class	$1,000.00
3.	In counties containing cities of the third class	$800.00
4.	In counties containing cities of the fourth class	$600.00
5.	In all other counties	$400.00

(b) Retail drink license, motel drink license, restaurant drink license, or supplemental bar license, per annum:

1.	In counties containing cities of the first class ***or a consolidated local government***	$1,600.00
2.	In counties containing cities of the second class	$1,000.00
3.	In counties containing cities of the third class	$800.00
4.	In counties containing cities of the fourth class	$600.00

(c) Special temporary liquor license, per event:
  1. In counties containing cities of the first class ***or a consolidated local government*** $266.66
  2. In counties containing cities of the second class $166.66
  3. In counties containing cities of the third class $133.34
  4. In counties containing cities of the fourth class $100.00
(d) Restaurant wine license, per annum:
  1. New applicants $600.00
  2. Applicants for renewal $400.00
(e) Special temporary wine license, per event $50.00
(f) Special private club license, per annum $300.00
(g) Special Sunday retail drink license, per annum $300.00
(h) Retail malt beverage license, per annum:
  1. New applicants $400.00
  2. Applicants for renewal $150.00
(i) Special temporary malt beverage license, per event $25.00

(2) Any amount paid to any city within the county as a license fee for the same privilege for the same year may be credited against the county license fee.

(3) If any part of this section is held invalid, all of this section and of KRS 243.600 shall also be considered invalid.

Section 220. KRS 243.070 is amended to read as follows:

The~~[city]~~ legislative body of any city ***or a consolidated local government*** in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may impose license fees for the privilege of manufacturing and trafficking in alcoholic beverages. Only those licenses set out in this section shall be issued, and the fee for each shall not exceed the specified amount:

(1) Distilled spirit licenses as set forth in KRS 243.030:
  (a) Distiller's license, per annum $500.00
  (b) Rectifier's license, per annum $3,000.00
  (c) Blender's license, per annum $3,000.00
  (d) Wholesaler's distilled spirits and wine license, per annum $3,000.00
  (e) Distilled spirits and wine retail package license, per annum:
    1. In counties containing cities of the first class ***or a consolidated local government*** $1,200.00
    2. In counties containing cities of the second class $1,000.00
    3. In counties containing cities of the third class $800.00
    4. In counties containing cities of the fourth class $600.00
    5. In all other counties $400.00

(2) Distilled spirits and wine retail drink license, motel drink license, airport drink license, restaurant drink license, or supplemental bar license, per annum:
  (a) In counties containing cities of the first class ***or a consolidated local government*** $1,600.00
  (b) In counties containing cities of the second class $1,000.00
  (c) In counties containing cities of the third class $800.00
  (d) In counties containing cities of the fourth class $600.00

(3) Distilled spirits and wine special temporary liquor license, per event:
  (a) In counties containing cities of the first class ***or a consolidated local government*** $266.66
  (b) In counties containing cities of the second class $166.66
  (c) In counties containing cities of the third class $133.33
  (d) In counties containing cities of the fourth class $100.00

(4) Special temporary wine license, per event $50.00

(5) Distilled spirits and wine special temporary auction license, per event $200.00

(6) Special private club license, per annum $300.00

(7) Distilled spirits and wine special Sunday retail drink

		license, per annum	$300.00
(8)		Extended hours supplemental license, per annum	$2,000.00
(9)		Nonresident special agent or solicitor's license, per annum	$40.00
(10)		Restaurant wine license, per annum:	
	(a)	New applicants	$600.00
	(b)	Applicants for renewal	$400.00
(11)		Caterer's license, per annum	$800.00
(12)		Riverboat license, per annum	$1,200.00
(13)		Horse race track license, per annum	$2,000.00
(14)		Convention center or convention hotel complex license, per annum	$2,000.00
(15)		Bottling house distilled spirits license or wine storage license, per annum	$1,000.00
(16)		Automobile race track license, per annum	$2,000.00
(17)		Souvenir retail liquor license, per annum	$1,000.00
(18)		Malt beverage licenses as follows:	
	(a)	Brewer's license, per annum	$500.00
	(b)	Microbrewery license, per annum	$500.00
	(c)	Malt beverage distributor's license, per annum	$400.00
	(d)	Retail malt beverage license, per annum	$200.00
	(e)	Special temporary retail malt beverage license, per event	$25.00
	(f)	Malt beverage brew-on-premises license, per annum	$100.00

Section 221. KRS 277.050 is amended to read as follows:

Any corporation organized under the laws of this or any other state for the purpose of constructing, maintaining or operating union railway stations for passengers or freight may, except in cities of the first class ***or in a consolidated local government***, acquire by condemnation, in the manner prescribed by the Eminent Domain Act of Kentucky, such lands and material in this state as it deems to be reasonably necessary for the purpose of constructing, maintaining and operating such union railway stations and the usual or proper tracks, platforms, sheds, approaches and other appurtenances thereto.

Section 222. KRS 278.650 is amended to read as follows:

(1) If a utility proposes construction of an antenna tower for cellular telecommunications services or personal communications services which is to be located within a county containing a city of the first class ***or a consolidated local government***, then the utility shall submit the proposal to the planning commission of the affected planning unit prior to making application to the commission for a certificate of public convenience and necessity as required by KRS 278.020(1). The commission shall not grant a certificate of convenience and necessity in this situation until a final action on the proposal has been taken by the planning commission of the affected planning unit, or until the sixty (60) day time period set forth in KRS 100.324(5) has expired, whichever comes first.

(2) If a planning commission rejects a proposal to construct an antenna tower, the commission may override the decision of the planning commission and issue a certificate of convenience and necessity for construction of the cellular or personal communications services antenna tower, if it determines that there is no acceptable alternate site, and that the public convenience and necessity requires the proposed construction.

(3) Any party aggrieved by the final action of the Public Service Commission under subsections (1) and (2) of this section shall appeal from the action to the Franklin Circuit Court. The appeal shall be filed within thirty (30) days after the final action by the Public Service Commission. All final actions of the Public Service Commission which have not been appealed within thirty (30) days shall not be subject to judicial review.

(4) If a utility proposes construction of an antenna tower for cellular telecommunications services or personal communications services which is to be located outside the area of a county containing a city of the first class ***or a consolidated local government***, then the commission may also take into account in its deliberations the character of the general area concerned, and the likely effects of the installation on nearby land uses and values.

Section 223. KRS 278.665 is amended to read as follows:

(1) The commission shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish the minimum content of a uniform application, provided under KRS 100.985(5), for a certificate of convenience and necessity to construct cellular antenna towers, and the procedures to carry out the commission's responsibilities under KRS 100.987.

(2) The commission, in establishing the public notice requirements of a uniform application as provided for in subsection (1)

of this section, shall distinguish between areas of low and high population densities. At a minimum, when the site of the proposed cellular antenna tower is outside of an incorporated city or within a rural service area in an urban-county, the commission shall require that every person who owns property contiguous to the property where the proposed cellular antenna tower will be located receives notice by certified mail, return receipt requested, of the proposed construction, given the commission docket number under which the application will be processed, and informed of the opportunity to intervene in the application. The provisions of this subsection shall not apply to unincorporated areas within a county containing a city of the first class ***or a consolidated local government***.

Section 224. KRS 279.310 is amended to read as follows:

As used in KRS 279.320 to 279.600, unless the context requires otherwise:

(1) "Cooperative" means any corporation organized under KRS 279.320 to 279.600 or which becomes subject to those sections in the manner provided therein.

(2) "Person" means any natural person, firm, association, corporation, business trust or partnership.

(3) As used in this chapter, the term "telephone service" shall include in its meaning communications services of all kinds allowed to any other telephone utility, authorized by regulatory agency and with some unregulated, that being the transmission of voice, data, sounds, signals, pictures, writing, or signs of all kinds, by use of wire, radio, light, electromagnetic impulse, broadband (wideband) spectrum, or any other transmission mode and facility used in rendition of such services; but shall not include in their meaning message telegram service, or radio broadcasting services or facilities within the meaning of Section 153(O) of the Federal Communications Act of 1934, as amended.

(4) "Acquire" means to construct, purchase, obtain by lease, devise, gift or by eminent domain, or to obtain by any other lawful means.

(5) "Board" means the board of trustees of a corporation formed under KRS 279.320 to 279.600.

(6) "Federal agency" means and includes the United States, the President of the United States, and all federal authorities, instrumentalities and agencies in the ordinary sense.

(7) "Improve" means to construct, reconstruct, extend, enlarge, alter, better or repair.

(8) "Member" means and includes each person signing the articles of incorporation of a corporation formed under KRS 279.320 to 279.600, each person later admitted to membership according to law or according to the articles of incorporation or bylaws of the corporation, and each common stockholder in a corporation, having capital stock, organized under KRS 279.320 to 279.600.

(9) "Obligations" means and includes negotiable bonds, notes, debentures, interim certificates or receipts and all other evidences of indebtedness either issued or the payment thereof assumed by a corporation organized under KRS 279.320 to 279.600.

(10) "System" means and includes any plant, works, facilities and properties, and all parts thereof and appurtenances thereto, used or useful in the operation and maintenance of telephone communication service.

(11) "Rural area" shall be deemed to mean any area of this state not included within the boundaries of any incorporated or unincorporated city ***or of a consolidated local government***,~~[village or borough]~~ having a population in excess of fifteen hundred (1,500) inhabitants.

(12) "Telephone company" means any natural person, firm, association, corporation or partnership owning, leasing or operating any line, facility or system used in the furnishing of telephone service within this state.

Section 225. KRS 304.8-060 is amended to read as follows:

(1) The custodian of insurance securities shall be appointed by the Governor, in accordance with laws governing other executive appointments. He shall receive a monthly salary to be fixed by the Governor in accordance with the provisions of KRS 64.640, but to be paid out of custodial expense funds provided by insurers pursuant to KRS 304.8-190.

(2) The custodian shall receive in his official capacity, all deposits made with him pursuant to this code.

(3) The custodian shall be available at all reasonable times in the branch office of the Department of Insurance, maintained in a city of the first class ***or a consolidated local government***.

Section 226. KRS 304.8-090 is amended to read as follows:

(1) The commissioner shall designate at least one (1) but not more than five (5) banks or trust companies in each county of this state containing a city of the first class ***or a consolidated local government*** and such other banks as proposed by the insurer and approved by the commissioner whose vaults shall be used as depositories for assets of insurers deposited under this code.

(2) Each insurer depositing assets shall, at its own expense, rent space therefor in the vaults of the banks or trust companies so designated.

Section 227. KRS 345.010 is amended to read as follows:

When used in this chapter:

(1) "Public employer" means a city of the first class ***or a consolidated local government,*** or any city that petitions the

secretary of the Labor Cabinet to be included by this chapter;

(2) "Firefighter" means an employee of the public employer engaged in serving the public by providing fire protection, including those covered by KRS Chapter 95;

(3) "Labor organization" means any chartered labor organization of any kind in which firefighters participate and which exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages, rate of pay, hours of employment, or conditions of employment;

(4) "Exclusive representative" means the labor organization which has been designated by the State Labor Relations Board as the representative of the majority of firefighters in appropriate units or has been so recognized by the public employer;

(5) "Board" means the State Labor Relations Board;

(6) "Person" includes one (1) or more individuals, labor organizations, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers;

(7) "Secretary" means the secretary of the Labor Cabinet of the Commonwealth of Kentucky.

Section 228. KRS 381.440 is amended to read as follows:

Whenever the owner of a lot in a city of the first class ***or a consolidated local government*** proposes to excavate upon the lot to a depth greater than ten feet below the top of the curbstone of the sidewalk adjoining the lot, shall, at his own expense, protect any wall on adjoining land near the excavation from injury from such excavation, if the necessary license is afforded him to enter upon the adjoining land for that purpose, but not otherwise.

Section 229. KRS 393.100 is amended to read as follows:

Any property paid into any court of this state for distribution and the increments thereof, shall be presumed abandoned if not claimed within five (5) years after the date of payment into court or as soon after the five (5) year period, as all claims filed in connection with it, have been disallowed or settled by the court. Provided, however, that any property paid into any court of this state for distribution and the increments thereof, which may be presumed abandoned as provided in this chapter and which shall have been recovered or procured upon the relationship or through the instrumentality of any municipality ***or a consolidated local government*** of this state, shall revert to the general fund of such municipality ***or a consolidated local government*** and at any time after the five (5) year period has expired, after the date of the payment into the court, the municipality ***or a consolidated local government*** may by petition filed against the custodian of such funds, in the court in which said property is located, request the payment thereof to said municipality ***or a consolidated local government*** and the judge of said court shall order the custodian thereof, to pay the entire sum to said municipality ***or a consolidated local government***. Provided, further that before entering judgment, ordering said sum so paid, the court shall require that notice be published at least once in a newspaper of general bona fide circulation in the county, stating the intention of the court to award such sum to the municipality ***or a consolidated local government*** and final judgment shall not be entered, until fifteen (15) days shall have elapsed from the date of such publication. At any time prior to the final judgment, the court may consider any bona fide claims made by claimants to said property or any part thereof. However, thereafter, any and all claimants shall be forever barred therefrom.

Section 230. KRS 416.560 is amended to read as follows:

(1) Notwithstanding any other provision of the law, a department, instrumentality or agency of ***a consolidated local government,*** city, county, or urban-county government, other than a waterworks corporation the capital stock of which is wholly owned by a city of the first class ***or a consolidated local government***, having a right of eminent domain under other statutes shall exercise such right only by requesting the governing body of the ***consolidated local government,*** city, county, or urban-county to institute condemnation proceedings on its behalf. If the governing body of the ***consolidated local government,*** city, county, or urban-county agrees, it shall institute such proceedings under KRS 416.570, and all costs involved in the condemnation shall be borne by the department, instrumentality, or agency requesting the condemnation.

(2) If any department, instrumentality or agency of a ***consolidated local government,*** city, county, or urban-county government, other than a waterworks corporation the capital stock of which is wholly owned by a city of the first class ***or a consolidated local government***, operates in more than one (1) governmental unit, it shall request the governing body of the ***consolidated local government,*** city, county, or urban-county government wherein the largest part of the individual tract of the property sought to be condemned lies, to institute condemnation proceedings on its behalf.

(3) A department, instrumentality, or agency of the Commonwealth of Kentucky, other than the Transportation Cabinet and local boards of education, having a right of eminent domain under other statutes shall exercise such right only by requesting the Finance and Administration Cabinet to institute condemnation proceedings on its behalf. If the Finance and Administration Cabinet agrees, it shall institute such proceedings under KRS 416.570, and all costs involved in the condemnation shall be borne by the department, instrumentality, or agency requesting the condemnation.

(4) Prior to the filing of the petition to condemn, the condemnor or its employees or agents shall have the right to enter upon any land or improvement which it has the power to condemn, in order to make studies, surveys, tests, sounding, and appraisals, provided that the owner of the land or the party in whose name the property is assessed has been notified ten (10) days prior to entry on the property. Any actual damages sustained by the owner of a property interest in the property entered upon by the condemnor shall be paid by the condemnor and shall be assessed by the court or the court may refer the matter to commissioners to ascertain and assess the damages sustained by the condemnee, which award shall be subject

to appeal.

Section 231. KRS 424.130 is amended to read as follows:

(1) Except as otherwise provided in KRS 424.110 to 424.370 and notwithstanding any provision of existing law providing for different times or periods of publication, the times and periods of publications of advertisements required by law to be made in a newspaper shall be as follows:

(a) When an advertisement is of a completed act, such as an ordinance, resolution, regulation, order, rule, report, statement, or certificate and the purpose of the publication is not to inform the public or the members of any class of persons that they may or shall do an act or exercise a right within a designated period or upon or by a designated date, the advertisement shall be published one (1) time only and within thirty (30) days after completion of the act. However, a failure to comply with this paragraph shall not subject a person to any of the penalties provided by KRS 424.990 unless such failure continues for a period of ten (10) days after notice to comply has been given him by registered letter.

(b) When an advertisement is for the purpose of informing the public or the members of any class of persons that on or before a certain day they may or shall file a petition or exceptions or a remonstrance or protest or objection, or resist the granting of an application or petition, or present or file a claim, or submit a bid, the advertisement shall be published at least once, but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the occurrence of the act or event.

(c) Excepting counties with a city of the first class ***or a consolidated local government***, when an advertisement is for the purpose of informing the public and the advertisement is of a sale of property or is a notice of delinquent taxes, the advertisement shall be published once a week for three (3) successive weeks. For counties containing a city of the first class ***or a consolidated local government***, when an advertisement is for the purpose of informing the public and the advertisement is a notice of delinquent taxes, or notice of the sale of tax claims, the advertisement shall be published once, preceded by a one-half (1/2) page notice of advertisement the preceding week. The provisions of this paragraph shall not be construed to require the advertisement of notice of delinquent state taxes which are collected by the state.

(d) Any advertisement not coming within the scope of paragraph (a), (b) or (c) of this subsection, such as one for the purpose of informing the public or the members of any class of persons of the holding of an election, or of a public hearing, or of an examination, or of an opportunity for inspection, or of the due date of a tax or special assessment, shall be published at least once but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the occurrence of the act or event, or in the case of an inspection period, the inspection period commences.

(e) If the particular statute requiring that an advertisement be published provides that the day upon or by which, or the period within which, an act may or shall be done or a right exercised, or an event may or shall take place, is to be determined by computing time for the day of publication of an advertisement, the advertisement shall be published at least once, promptly, in accordance with the statute, and the computation of time shall be from the day of initial publication.

(2) This section is not intended to supersede or affect any statute providing for notice of the fact that an adversary action in court has been commenced.

Section 232. KRS 424.220 is amended to read as follows:

(1) Excepting officers of a city of the first class ***or a consolidated local government***, a county containing such a city ***or consolidated local government***, a public agency of such a city***, consolidated local government,*** or county, or a joint agency of such a city***, consolidated local government,*** and county, or of a school district of such a city***, consolidated local government,*** or county, and excepting officers of a city of the second class or an urban-county government, every public officer of any school district, city, ***consolidated local government,*** county, or subdivision, or district less than a county, whose duty it is to collect, receive, have the custody, control, or disbursement of public funds, and every officer of any board or commission of a city, ***consolidated local government,*** county or district whose duty it is to collect, receive, have the custody, control, or disbursement of funds collected from the public in the form of rates, charges, or assessments for services or benefits, shall at the expiration of each fiscal year prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by him during the fiscal year just closed, unless he has complied with KRS 424.230. Pursuant to subsections (2) and (3) of KRS 91A.040, each city of the sixth class shall prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by the city which complies with the provisions of this section.

(2) The statement shall show:

(a) The total amount of funds collected and received during the fiscal year from each individual source; and

(b) The total amount of funds disbursed during the fiscal year to each individual payee and the purpose for which the funds were expended.

(3) Only the totals of amounts paid to each individual as salary or commission and public utility bills shall be shown. The amount of salaries paid to all nonelected county employees shall be shown as lump-sum expenditures by category, including, but not limited to, road department, jails, solid waste, public safety, and administrative personnel.

(4) The amount of salaries paid to all teachers shall be shown as a lump-sum instructional expenditure for the school district and not by amount paid to individual teachers. The amount of salaries paid to all other employees of the board shall be shown as lump-sum expenditures by category, including, but not limited to, administrative, maintenance, transportation, and food service. The local board of education and the fiscal court shall have accessible a factual list of individual salaries for public scrutiny and the local board and the fiscal court shall furnish by mail a factual list of individual salaries of its employees to a newspaper qualified under KRS 424.120 to publish advertisements for the district, which newspaper may then publish as a news item the individual salaries of school or county employees.

(5) The officer shall procure and include in or attach to the financial statement, as a part thereof, a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of funds to the credit of the officer making the statement.

(6) The officer shall, except in a city electing to publish its audit in lieu of the financial statement in accordance with KRS 91A.040(6), within sixty (60) days after the close of the fiscal year cause the financial statement to be published in full in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county, or district, as the case may be. Promptly after the publication is made, the officer shall file a written or printed copy of the advertisement with proof of publication, in the office of the county clerk of the county and with the Auditor of Public Accounts. Promptly after the publication is made, the officer shall also file one (1) copy of the financial statement with the Kentucky Department for Local Government.

(7) In lieu of the publication requirements of subsection (6) of this section, the appropriate officer of any municipally-owned electric, gas, or water system may elect to satisfy the requirements of subsection (6) of this section by:

(a) Preparation of a certified audit by a certified public accountant, performed in accordance with generally accepted principles of accounting, for the fiscal year;

(b) Publishing in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county, or district as the case may be, the statement of revenue and expenditures from such audit, together with the statement that the audit report is available for inspection at the offices of the utility; and

(c) Making such audit available for inspection on request of anyone during normal working hours of the utility.

(8) In lieu of the publication requirements of subsection (6) of this section, the appropriate officer of a county may elect to satisfy the requirements of subsection (6) of this section by publishing an audit, prepared in accordance with KRS 43.070 or 64.810, in the same manner that city audits are published in accordance with KRS 91A.040(7).

Section 233. KRS 424.240 is amended to read as follows:

Immediately following the adoption of an annual budget by any county or city other than one of the first class ***or a consolidated local government***, the~~[county or city]~~ clerk shall cause a summary of the budget or the text of the budget ordinance to be advertised for the county***, consolidated local government*** or city by publication in a newspaper.

Section 234. KRS 439.315 is amended to read as follows:

(1) A person placed by a releasing authority on probation, parole, or other form of release subject to supervision by the Department of Corrections and all persons supervised pursuant to KRS 439.560 shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release.

(2) The fees shall be as follows:

(a) For a felony, not less than ten dollars ($10) per month while on active supervision nor more than two thousand five hundred dollars ($2,500) per year.

(b) For a misdemeanor, not less than ten dollars ($10) per month while on active supervision nor more than five hundred dollars ($500) per year, except as provided in subsection (13) of this section.

(3) The releasing authority shall order the fee paid in a lump sum or installments. If the fee is to be paid in a lump sum, the person shall not be released from custody until the fee is paid in full.

(4) Upon the failure of a person to pay an installment on a fee set forth in a release agreement, the releasing authority shall hold a hearing to determine why the installment has not been paid. Failure without good cause to pay an installment pursuant to a release agreement shall be grounds for the revocation of probation, parole, conditional release, or other form of release upon which the person has been released as provided in KRS 533.050.

(5) The releasing authority shall hold a hearing to determine the ability of the defendant to make the payments; and in making this determination, the releasing authority shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution. In counties containing a city of the first class or an urban-county form of government, the releasing authority may waive the payment of the fee in whole or in part for defendants placed under the supervision of the adult misdemeanant probation and work release program, if it finds that any of the factors in subsection (6) of this section exist.

(6) The releasing authority shall not waive any fee unless the commissioner of the Department of Corrections or his designee petitions the releasing authority in written form for the waiver. The Department of Corrections shall not petition unless:

(a) The offender is a student in a school, college, university, or course of vocational or technical training designed to fit the student for gainful employment. Certification of student status shall be supplied to the releasing authority by the educational institution in which the offender is enrolled. In such case, the fee may be postponed until completion of education but shall be paid thereafter.

(b) The offender has an employment disability, as determined by a physical, psychological, or psychiatric examination acceptable to, or ordered by, the releasing authority.

(7) At any time during the pendency of the judgment or order rendered according to the terms of this section, a defendant may petition the releasing authority to modify or vacate its previous judgment or order on the grounds of change of circumstances with regard to the defendant's ability to pay the fee. The releasing authority shall advise the defendant of this right at the time of the rendering of the judgment or order placing the defendant on probation, parole, or other supervised release.

(8) All sums paid by the defendant pursuant to this section shall be paid into the general fund, except as provided in subsection (13) of this section.

(9) When granting a release of any defendant by way of probation, parole, or otherwise, the releasing authority shall make the payment of this fee a condition of release, unless the fee has been waived, reduced, or delayed as provided in this section. Nonpayment shall be grounds for revocation of the release as provided in KRS 533.050.

(10) The releasing authority, if the Department of Corrections petitions the releasing authority to modify the fee, shall consider the petition and may waive the payment of the fee in whole or in part, delay payment of the fee, increase the fee, or deny the petition.

(11) All fees fixed under the provisions of this section shall be collected by the circuit clerk of the county where the defendant is supervised, except as provided in subsection (13) of this section.

(12) The Department of Corrections and the Division of Probation and Parole shall, for each person released under its supervision, keep an account of all payments made and report delinquencies to the releasing authority.

(13) In a city, county, ***consolidated local government,*** charter county, or an urban-county government, persons placed by a releasing authority on probation, parole, or other release subject to supervision by the adult misdemeanant probation and work release program of the county, city, ***consolidated local government,*** charter county, or urban-county government shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release. The fees shall be assessed by the releasing authority in accordance with the provisions of this section. The fee for a misdemeanant defendant placed under the supervision of an adult misdemeanant probation and work release program of a county, city, ***consolidated local government,*** charter county, or an urban-county government shall be not less than one hundred dollars ($100) nor more than five hundred dollars ($500) per year. All sums paid by the defendant under this subsection shall be paid into the general fund of the county, city, ***consolidated local government,*** charter county, or urban-county government in lieu of the payment specified in subsection (8) of this section. All fees fixed under this subsection shall be collected by the circuit clerk of the county or urban-county involved. The adult misdemeanant probation and work release program of the county, ***consolidated local government,*** city, charter county, or urban-county government shall, for each person released under its supervision, keep an account of all payments made, maintain copies of all receipts issued by the circuit clerk, and report delinquencies to the court.

SB 45, AN ACT relating to the Kentucky Housing Corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198A.010 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:

(1) "Bonds" or "notes" means the bonds or bond anticipation notes authorized to be issued by the corporation under this chapter but shall not include any fund notes;

(2) "Commonwealth" means the Commonwealth of Kentucky;

(3) "Corporation" means the Kentucky Housing Corporation created by this chapter;

(4) "Sponsors" means persons, corporations, associations, partnerships***,*** or other entities, consumer housing cooperatives and limited dividend housing corporations, associations, partnerships***,*** or other entities organized pursuant to the Kentucky Revised Statutes for the primary purpose of providing housing to persons and families of lower and moderate income, and shall include without limitation, organizations engaged in the production, origination***,*** and development of residential housing units intended to qualify for financial assistance pursuant to Section 8 of the United States Housing Act of 1937, as amended;

(5) "Development costs" means the costs approved by the corporation as appropriate expenditures and credits which may be incurred by sponsors of residential housing, prior to commitment and initial advance of the proceeds of a construction loan or of a mortgage loan, including***,*** but not limited to:

(a) Payments for options to purchase properties on the proposed residential housing site, deposits on contracts of purchase, or, with prior approval of the corporation, payments for the purchase of[~~ such~~] properties;

(b) Legal and organizational expenses, including payments of attorney's fees, project manager, clerical, and other staff salaries, office rent, and other incidental expenses;

(c) Payment of fees for preliminary feasibility studies and advances for planning, engineering, and architectural work;

(d) Expenses for tenant surveys and market analyses;

(e) Necessary application and other fees; and

(f) Credits allowed by the corporation to recognize the value of service provided at no cost by the sponsors, builders, and/or developers;

(6) "Fund notes" means the notes authorized to be issued by the corporation under the provisions of KRS 198A.080;

(7) "Governmental agency" means any city, county, or other political subdivision of the Commonwealth, the Commonwealth and any department, division, or public agency thereof, the federal government or any political subdivision of any other state, any public housing authority or any nonprofit corporation or other entity legally empowered to act on behalf of any of the foregoing to perform the duties of a public housing authority, or any two (2) or more thereof;

(8) "Housing development fund" means the housing development fund created by KRS 198A.080;

(9) "Insured construction loan" means a construction loan for land development or residential housing which is secured by a mortgage either insured or guaranteed by or for which there is a commitment to insure or guarantee by:

(a) The United States of America or any agency or instrumentality thereof; or

(b) Any other entity which has been duly approved for the insuring of such loans by the United States of America or by the Commonwealth of Kentucky or any agency or instrumentality thereof;

(10) "Insured mortgage" or "insured mortgage loan" means a mortgage loan for land development for residential housing or for residential housing either made, insured, or guaranteed by or for which there is a commitment to make, insure, and guarantee by:

(a) The United States of America or any agency or instrumentality thereof; or

(b) Any other entity, including private mortgage insurance, which has been duly approved for the insuring of such loans by the United States of America or by the Commonwealth or any agency or instrumentality thereof and shall also refer to and mean any loan for residential housing not secured by mortgage which is insured or guaranteed to at least eighty-five percent (85%) of its principal amount by the United States of America or any agency or instrumentality thereof;

(11) "Land development" means the process of acquiring land primarily for residential housing construction for persons and families of lower and moderate income and making, installing, or constructing nonresidential housing improvements, including water, sewer, and other utilities, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, and other installations or works, whether on or off the site, which the corporation deems necessary or desirable to prepare ***the***[~~such~~] land primarily for residential housing construction;

(12) "Obligations" means any bonds, bond anticipation notes or fund notes authorized to be issued by the corporation under the provisions of this chapter;

(13) "Persons and families of lower and moderate income" shall include only those individuals whose family income combined does not exceed ***the income requirements defined under Section 143 of the Internal Revenue Code of 1986, as amended***[~~an aggregate total of:~~

~~(a) Twenty-five thousand dollars ($25,000) per year, for the fiscal year ending June 30, 1986; and for subsequent fiscal years ending June 30, the amount set by this paragraph for the immediately preceding fiscal year, increased to the nearest one hundred dollars ($100) by the percentage increase, if any, in the annual average for all items of the consumer price index for all urban consumers (CPI-U) of the Bureau of Labor Statistics of the United States Department of Labor for the preceding calendar year plus;~~

~~(b) Fifteen hundred dollars ($1,500) for head of household status, if applicable; plus~~

~~(c) Fifteen hundred dollars ($1,500) for each dependent living in the subject household; plus~~

~~(d) Twenty-five hundred dollars ($2,500) if the residential housing is situated in an eastern Kentucky county as designated by the board of directors of the corporation~~];

(14) "Residential housing" means a specific work or improvement undertaken primarily to provide dwelling accommodations for persons and families of lower and moderate income, including the acquisition, construction, or rehabilitation of land, buildings, and improvements[~~ thereto~~], and[~~ such~~] other nonhousing facilities as may be incidental[~~ or appurtenant thereto~~];[~~ and~~]

(15) "Tenant programs and services" means services and activities for persons and families living in residential housing, including the following:

(a) Counseling on household management, housekeeping, budgeting, and money management;

(b) Child care and similar matters;

(c) Access to available community services related to job training and placement, education, health, welfare, and other community services;

(d) Guard and other matters related to the physical security of the housing residents;

(e) Effective management-tenant relations, including tenant participation in all aspects of housing administration, management**_,_** and maintenance;

(f) Physical improvements of the housing, including buildings, recreational and community facilities, safety measures, and removal of code violations;

(g) Advisory services for tenants in the creation of tenant organizations which will assume a meaningful and responsible role in the planning and carrying out of housing affairs; and

(h) Procedures whereby tenants, either individually or in a group, may be given a hearing on questions relating to management policies and practices, either in general or in relation to an individual or family.

SB 61, AN ACT relating to energy savings in state government buildings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.770 is amended to read as follows:

As used in KRS 56.770 to 56.784, unless the context requires otherwise:

(1) "Aggregate simple payback period" means the simple payback period of a set of energy efficiency measures taken together for a building;

(2) "Building" means all contiguous land, structures, appurtenances, and improvements that use energy;

(3) "Energy audit" means examination of a building's energy-using systems, energy consumption and costs, occupancy patterns, and operation and maintenance procedures;

(4) "Energy efficiency measure" means any construction, improvement, repair, alteration, or betterment of a building that is intended to reduce energy costs; or any equipment, fixture, or furnishing to be added to or used in a building that will be a cost-effective energy-related project that is intended to reduce energy costs;

(5) "***Guaranteed energy savings***[~~Energy~~] performance contract" means an agreement for the provision of energy services or equipment, including energy ***efficiency measures, energy*** conservation ***measures***[~~ enhancing projects~~] and alternate energy technologies for state government buildings, in which a person agrees to design, construct, install, maintain, operate, or manage energy systems or equipment to improve energy efficiency of, or produce energy in connection with, a state government building***. Payments for a guaranteed energy savings performance contract shall be made from measured and verified savings generated from implementation of the energy efficiency measures financed by the contract. The term of a guaranteed energy savings performance contract shall not exceed the life of the energy savings generated from implementation of the energy efficiency measures financed by the contract. If the measured and verified savings are not sufficient to pay the financial obligations under the contract, the contractor is liable for the contract payments***[~~in exchange for a portion of the energy cost savings or specified revenues based on estimated or measured energy cost savings~~];

(6) "Engineering analysis" means a detailed cost-benefit analysis of energy efficiency investments including a review of potential cost savings through operation and maintenance changes;

(7)[~~ "Guaranteed energy savings contract" means an energy performance contract;~~

~~(8)~~] "Life-cycle cost analysis" means a method for estimating the total cost of an energy-using component or building over its useful life, including cost factors such as purchase price or construction, renovation, or leasing costs, energy use, maintenance, interest, and inflation;

(8)[~~(9)~~] "Low cost/no cost energy ***conservation***[~~efficiency~~] measures" means those energy ***saving practices and energy*** efficiency measures, usually involving operation and maintenance practices, that can be accomplished by existing personnel within existing operating budgets;[~~ and~~]

(9)[~~(10)~~] "Simple payback period" means the number of years it takes to pay back, from estimated[~~ energy~~] savings, the initial cost of an energy efficiency ***measure***[~~investment,~~] with the simple payback period equal to the initial cost divided by the ***estimated*** annual [~~energy ~~]savings***;***

(10) "Savings" means the reduction in expenditures, excluding any state government and post-secondary education personnel expenditures, that are measured and verified, including but not limited to energy usage, operating costs, and capital cost avoidance that occur as a result of the implementation of energy efficiency measures;

(11) "Capital cost avoidance" means savings generated when expenditures of appropriated capital construction or appropriated capital outlay funds are avoided because the budgeted capital improvements or items of equipment are contained within the energy efficiency measures provided by a guaranteed energy savings performance contract; and

(12) "Operating costs" means expenditures associated with operating and maintaining a properly functioning building and its systems including, but not limited to, the heating, ventilation, cooling, lighting, plumbing, water heating, electrical, and laundry systems and their controls.

Section 2. KRS 56.774 is amended to read as follows:

(1) The Energy Efficiency Program for State Government Buildings shall provide for implementation of low cost/no cost energy conservation measures, engineering analyses, energy ***efficiency***[~~conservation~~] measures, building improvements, and monitoring of results for state-owned ***or state-leased*** buildings.

(2) Any engineering analysis conducted on a state-owned building shall assess the energy efficiency of the building and make recommendations for improving the efficient use of energy within the building. The analyses shall be performed by qualified engineers, architects, or other persons trained in energy efficiency who may be employees of the Finance and Administration Cabinet or employed pursuant to KRS Chapter 45A, except that any engineers, architects or other persons trained in energy efficiency and retained under a guaranteed energy savings ***performance*** contract, shall not be subject to the provisions of KRS 45A.800 to 45A.835.

(3) Except as provided in subsection (5) of this section, measures to improve the energy efficiency of a state-owned building, which have an aggregate simple payback period of five (5) years or less, shall be implemented as general fund appropriations become available. No more than five percent (5%) of the cost of energy efficiency measures for a building may be utilized for monitoring the results.

(4) If general fund appropriations are available for energy efficiency improvements, the Finance and Administration Cabinet shall prioritize projects among the various state-owned buildings to determine which projects shall be implemented to best utilize the available funding.

(5) If general fund appropriations are unavailable, energy ***efficiency***[~~conservation~~] measures for a state-owned building may be financed by other means. These other means include, but are not limited to, ***guaranteed energy savings performance contracts as defined under Section 1 of this Act***[~~energy performance contracts and guaranteed energy savings contracts~~] entered into pursuant to KRS 45A.085 and KRS 45A.045(10). ***Guaranteed energy savings***[~~Energy~~] performance contracts[~~ and guaranteed energy savings contracts~~] shall not be subject to the provisions of KRS 45A.800 to 45A.835. These energy ***efficiency***[~~conservation~~] measures shall not be limited to those ***that***[~~which~~] have an aggregate simple payback period of five (5) years or less, but shall result in reasonable economic benefit to the Commonwealth. Ownership of the energy ***efficiency***[~~conservation~~] measures shall ***be transferred to***[~~remain with~~] the Commonwealth ***upon completion of the guaranteed energy savings performance contract or as otherwise agreed upon in the contract. Savings from the implementation of the energy efficiency measures under the guaranteed energy savings performance contract shall***[~~. Energy cost savings may~~] be used to ***satisfy the obligations under the guaranteed energy savings performance contract and to*** repay the cost of the other means used to finance ***the*** energy ***efficiency***[~~conservation~~] measures, ***and may be used to repay expenses incurred by***[~~with any remaining savings paid to~~] the Finance and Administration Cabinet to reimburse the cabinet for[~~ all its~~] expenses related to the ***guaranteed energy savings performance contract***[~~energy conservation measure~~], including but not limited to, staff time for monitoring, overseeing, and managing the project. ***Notwithstanding KRS 45.229,*** remaining savings shall ***remain***[~~be deposited~~] in the state agency account ***and shall not lapse***. All[~~ energy cost~~] savings ***projected***[~~estimated~~] under ***a***[~~an energy performance contract or~~] guaranteed energy savings ***performance*** contract shall be guaranteed to the Commonwealth.

(6) The savings in reduced expenditures that are specified as payment sources shall be documented in the guaranteed energy savings performance contract. Savings shall be determined by using one (1) of the measurement and verification methodologies listed in the United States Department of Energy's "International Performance Measurement and Verification Protocol." If specific data limitations or documented unique characteristics of the project prevent use of the "International Performance Measurement and Verification Protocol," an alternative method that is compatible shall be adopted upon documentation and approval of the secretary of the Finance and Administration Cabinet.

Section 3. KRS 56.784 is amended to read as follows:

(1) The Finance and Administration Cabinet may implement the provisions of KRS 56.770 to 56.784 through the promulgation of administrative regulations pursuant to KRS Chapter 13A.

(2) By July 15, 2002, the secretary of the Finance and Administration Cabinet shall promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A establishing a process for procurement of energy savings performance contracts, including required contract language. The following entities shall adhere to these regulations when procuring services under a guaranteed energy savings performance contract:

(a) Any governing body of a postsecondary institution that manages its capital construction program under KRS 164A.580; or

(b) Any public corporation as defined by KRS 45.750(2)(c) or as created under the Kentucky Revised Statutes as a governmental agency and instrumentality of the Commonwealth that manages its capital construction program.

(3) All state agencies, including those identified in subsection (2) of this section, shall submit proposed guaranteed energy savings performance contracts to the Office of Financial Management for review and approval prior to contract execution.

(4) The secretary shall report all authorized guaranteed energy savings performance contracts to the Capital Projects and Bond Oversight Committee for its review.

SECTION 4. A NEW SECTION OF KRS 56.770 to 56.784 IS CREATED TO READ AS FOLLOWS:

(1) A special fund in the State Treasury is hereby created which shall be known as the energy efficiency in state government buildings revolving loan fund. The fund shall be used to provide financial assistance to state government agencies for the purposes of KRS 56.770 to 56.784.

(2) The fund may receive state appropriations, gifts, grants, and federal funds and shall include earnings from the investment of moneys in the fund. Any fund balance at the close of the fiscal year shall not lapse but shall carry forward to the next fiscal year and shall remain available solely for the purposes of this section.

(3) Administration of this fund shall be the responsibility of the Finance and Administration Cabinet. The cabinet shall establish terms and conditions for loans from the fund including the application and repayment process. The cabinet shall establish and implement fiscal controls and accounting periods for payments received and disbursements made by the fund and for fund balances at the beginning and end of each accounting period.

(4) All repayments of loans made under this section shall be paid into the fund. Balances, or portions thereof, in the fund shall not revert to the general fund.

Section 5. The goal of the Commonwealth shall be to achieve a ten percent (10%) reduction in energy usage in state government buildings over the next four (4) years. The report required to be filed in accordance with KRS 56.782 shall document the State's success in accomplishing that goal.

The Committee on State Government reported **HB 487** with Committee Substitutes attached thereto, with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee Substitute No. 2 to **HB 487** is as follows:

HB 487, AN ACT relating to the Department of Public Advocacy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 31.010 is amended to read as follows:

There is hereby established as an independent agency of state government, attached for administrative purposes to the Public Protection and Regulation Cabinet, the Department of Public Advocacy, in order to provide for the establishment, maintenance and operation of a state sponsored and controlled system for:

(1) The representation of indigent persons accused of crimes or mental states which may result in their incarceration or confinement; and

(2) The pursuit of legal, administrative, and other appropriate remedies to insure the protection of the rights of ***persons with disabilities***[~~the developmentally disabled~~]. For the purposes of this chapter, "***persons with disabilities***[~~developmentally disabled~~]" shall ***refer to those persons eligible for protection and advocacy services under Public Laws 99-319, 102-569, 103-218, 106-170, and 106-402***[~~be defined as provided in Public Law 94-103, or~~] as amended ***and any other federal enabling statute hereafter enacted that defines the eligible client base for protection and advocacy services***.

Section 2. KRS 31.015 is amended to read as follows:

(1) ***(a)*** The Public Advocacy Commission shall consist of the following members, none of whom shall be a prosecutor***,***[~~or~~] law enforcement official***, or judge***, who shall serve terms of four (4) years, except the initial terms shall be established as hereafter provided:

1.[~~(a)~~] Two (2) members appointed by the Governor;

2.[~~(b)~~] One (1) member appointed by the ***Governor. This member shall be a child advocate or a person with substantial experience in the representation of children***[~~Speaker of the House of Representatives~~];

3.[~~(c)~~] One (1) member ***who is the executive director of the Criminal Justice Council of the Justice Cabinet***[~~appointed by the President Pro Tem of the Senate~~];

4.[~~(d)~~] Two (2) members appointed by the Kentucky Supreme Court;

5.[~~(e)~~] Two (2) members, who are licensed to practice law in Kentucky and have substantial experience in the representation of persons accused of crime, appointed by the Governor from a list of ***three (3)***[~~five (5)~~] persons submitted to him ***for each individual vacancy*** by the board of governors of the Kentucky Bar Association;

6.[~~(f)~~] The dean, ex officio, of each of the law schools in Kentucky or his designee; and

7.[~~(g)~~] One (1) member appointed by the Governor from a list of three (3) persons submitted to him ***or her*** by the ***joint advisory boards of the Protection and Advocacy Division of the Department of Public Advocacy***[~~Kentucky Protection and Advocacy Advisory Board~~].

(b) Any member of the commission serving prior to the effective date of this Act shall serve until the expiration of his or her current term of office. Subsequent appointments shall be for a term of four (4) years from the date of expiration of the term for which his or her predecessor was appointed.

(2) At the first meeting of the commission, a drawing by lot shall be conducted to determine the length of each original member's term. Initially there shall be four (4) two (2) year terms, four (4) three (3) year terms, and four (4) four (4) year terms. Vacancies in the membership of the commission shall be filled in the same manner as original appointments. Appointments to fill vacancies occurring before the expiration of a term shall be for the remainder of the unexpired term.

(3) The commission shall first meet at the call of the Governor and thereafter as the commission shall determine on a regular basis, but at least quarterly, and shall be presided over by a chairperson elected by its members for a one (1) year term. A majority of commission members shall constitute a quorum, and decisions shall require the majority vote of those present; except that a recommendation to the Governor pertaining to the appointment, renewal of the appointment, or removal of the public advocate shall require a majority vote of the commission. Each member of the commission shall have one (1) vote, and voting by proxy shall be prohibited.

(4) The public advocate shall, upon appointment or renewal, be an ex officio member of the commission without vote, shall serve as secretary of the commission, and shall be entitled to attend and participate in all meetings of the commission except discussions relating to renewal of his term or his removal.

(5) Commission members~~[shall serve without compensation but]~~ shall be reimbursed for reasonable and necessary expenses incurred while engaged in carrying out the duties of the commission ***and shall receive one hundred dollars ($100) per day for each meeting attended unless prohibited by law from receiving such compensation***.

(6) The commission shall:

(a) Receive applications, interview, and recommend to the Governor three (3) attorneys as nominees for appointment as the public advocate;

(b) Assist the public advocate in drawing up procedures for the selection of his staff;

(c) Review the performance of the public advocacy system and provide general supervision of the public advocate;

(d) Assist the Department of Public Advocacy in ensuring its independence through public education regarding the purposes of the public advocacy system; and

(e) Review and adopt an annual budget prepared by the public advocate for the system and provide support for budgetary requests to the General Assembly.

(7) In no event shall the commission or its members interfere with the discretion, judgment or advocacy of employees of the Department of Public Advocacy in their handling of individual cases.

Section 3. KRS 31.030 is amended to read as follows:

The ***authority and*** duties of the Department of Public Advocacy shall include, but are not limited to:

(1) Administering the statewide public advocacy system created by this chapter or by any other appropriate legislation or court decision;

(2) Providing technical aid to local counsel representing indigents;

(3) Assisting local counsel on appeals or taking appeals for local counsel, in the same manner as such appeals for the Commonwealth are presently handled by the Attorney General;

(4) Developing and promulgating standards and regulations, rules, and procedures for administration of the defense of indigent defendants in criminal cases which the public advocate, statutes, or the courts determine are subject to public assistance;

(5) Appointing ***assistant***~~[district]~~ public advocates;

(6) Reviewing local plans for providing counsel for indigents;

(7) Conducting research into***, and developing and implementing*** methods of***,*** improving the operation of the criminal justice system with regard to indigent defendants and other defendants in criminal actions;

(8) Issuing such rules, regulations, and standards as may be reasonably necessary to carry out the provisions of this chapter, the decisions of the United States Supreme Court, the decisions of the Kentucky Supreme Court, Court of Appeals, and other applicable court decisions or statutes;

(9) Being authorized to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of ***persons with disabilities***~~[the developmentally disabled]~~;~~[and]~~

(10) Being authorized to purchase liability insurance for the protection of all full-time public advocates, deputy public advocates, and assistant public advocates to protect them from liability for malpractice arising in the course or scope of employment and for the protection of attorneys with whom the Department of Public Advocacy contracts to protect them from liability for malpractice arising in the course or scope of the contract;

(11) Being authorized to seek and apply for and solicit funds for the operation of the defense of the indigent, or protection of the persons with disabilities programs from any source, public or private, and to receive donations, grants, awards, and similar funds from any legal source. Those funds shall be placed in a special account for the Department of Public Advocacy and those funds shall not lapse;

(12) Being authorized to assign a substitute attorney, for good cause, at any stage of representation, including appeal or

other post-conviction proceeding. The substitute attorney shall have the same functions with respect to the needy person as the attorney for whom he or she is substituted; and

(13) Do such other things and institute such other programs as are reasonably necessary to carry out the provisions of this chapter, or those decisions or statutes which are the subject of subsection (8) of this section.

Section 4. KRS 31.035 is amended to read as follows:

(1) There shall be[~~ an~~] advisory ***boards***[~~Board~~] for the Protection and Advocacy Division of the Department of Public Advocacy ***as set forth in Public Laws 99-319 and 106-402 and their implementing regulations. Each shall be*** comprised of not more than seventeen (17) citizen members appointed for ***terms of not less than***[~~a term of~~] two (2) years by the ***Protection and Advocacy Division Director***[~~public advocate. The board members shall be either developmentally disabled themselves or parents or representatives of persons who are developmentally disabled~~].

(2) The advisory ***boards***[~~board~~] shall meet at least quarterly and on other occasions as may be necessary upon the call of the ***Protection and Advocacy Division Director***[~~public advocate~~].

(3) The members of the advisory ***boards***[~~board~~] shall receive no compensation for their services, but shall be reimbursed for all expenses incurred through the performance of their duties as members of ***their respective***[~~the~~] advisory board. No member of ***any***[~~the~~] board shall be held to be a public officer by reason of his ***or her*** membership on the board.

Section 5. KRS 31.050 is amended to read as follows:

(1) The public advocate shall review and approve or deny or suggest modifications to all plans which are submitted to the Department of Public Advocacy for defense of indigent persons.

(2) If the plan for defense of indigent persons is approved, the public advocate may allot a sufficient sum, subject to the approval of the secretary of the Finance and Administration Cabinet to the county or counties in the judicial circuit involved for the purpose of assisting the said plan.[~~ The moneys shall be divided among the counties in the circuit as provided by the plan which is submitted.~~]

(3) At the end of each funding period, any moneys not expended shall revert to the state Department of Public Advocacy.

(4) Counties***, urban-counties, charter counties, consolidated local governments,*** and other units submitting applications under this chapter shall be obligated to pay and shall pay all costs incurred in their own defense of indigent programs which are in excess of the maximum amount allotted or other maximum amount of grant as specified in this chapter.

(5) The fiscal court; legislative body of the urban-county, charter county, or consolidated local government; or nonprofit corporation is authorized to seek and apply for and solicit funds for the operation of the defense of the indigent from any source, public or private, and to receive donations, grants, awards, and similar funds from any legal source.

(6) A defending attorney shall keep appropriate records respecting each needy person whom he or she represents under this chapter.

(7) The public advocate, nonprofit organization, or person administering a public advocacy plan shall submit an annual report to the Department of Public Advocacy showing the number of persons represented under this chapter, the crimes involved, the outcome of each case, and the expenditures, totalled by kind, made in carrying out the responsibilities imposed by this chapter.

Section 6. KRS 31.060 is amended to read as follows:

(1) Each county***, urban-county, charter county, and consolidated local government*** with a judicial district containing ten (10) or more circuit judges shall establish and maintain an office ***of***[~~for district~~] public advocacy and submit a plan for the operation thereof to the Department of Public Advocacy. If the plan submitted is approved by the Department of Public Advocacy, the public advocate shall grant to the county***, urban-county, charter county, or consolidated local government*** the amount to which it would be entitled under KRS 31.050(2) which shall be used as the Commonwealth's share in defraying the expenses of the program in that ***county, urban-county, charter county, or consolidated local government***[~~district. The county and other units contributing to the costs of the program shall be obligated to pay and shall pay all costs incurred in the operation of the defense of the indigents program which are in excess of the state contribution. Any excess of moneys remaining at the end of the funding period shall be returned to the Department of Public Advocacy~~].

(2) A county, urban-county, charter county, or consolidated local government identified in subsection (1) of this section shall contribute to the funding of the plan selected and approved in such amounts as the Department of Public Advocacy shall deem reasonable and necessary.

Section 7. KRS 31.065 is amended to read as follows:

(1) (a) The fiscal court of each county; or legislative body of an urban-county, charter county, or consolidated local government; except a county, urban-county, charter county, or consolidated local government wherein the judicial district is required to maintain a public advocate under this chapter, may provide for the representation of needy persons by:

1. Contracting with one (1) or more attorneys, professional service corporations, nonprofit organizations, or an association of attorneys to provide the legal services required in this chapter, provided there are suitable attorneys available willing to provide these services for reasonable compensation;

2. Establishing and maintaining an office for public advocacy; or

3. Adopting any combination of the options provided for in subparagraphs 1. and 2. of this paragraph.

(b) The fiscal court of a county; or the legislative body of an urban-county, charter county, or consolidated local government; may join with one (1) or more other counties, urban-counties, charter counties, or consolidated local governments in its judicial district or elsewhere or with any cities located within the county, urban-county, charter county, or consolidated local government or counties, urban-counties, charter counties, or consolidated local governments in providing this representation. These agreements shall be made pursuant to the provisions of KRS Chapter 65.

(c) If it elects to establish and maintain an office of public advocacy, and if the appropriate legislative authorities and fiscal courts concerned respectively agree on qualifications, term of office, compensation, support, and appointment under subsection (1) of Section 8 of this Act, the fiscal court of a county; or the legislative body of an urban-county, charter county, or consolidated local government; may join with cities within the county, urban-county, charter county, or consolidated local government and with the legislative body of one (1) or more other counties, urban-counties, charter counties, or consolidated local governments to establish and maintain a joint office of public advocacy. In that case, the participating counties, urban-counties, charter counties, or consolidated local governments shall be treated for the purposes of this chapter as if they were one (1) county, urban-county, charter county, or consolidated local government. The agreements shall be made pursuant to the provisions of KRS Chapter 65.

(2) If a county***, urban-county, charter county, or consolidated local government***[~~ or district~~] chooses ***not to submit a plan under subsection (1) of this section,***[~~none of the alternatives provided by KRS 31.160~~] or if a plan submitted to the public advocate is denied as provided by KRS 31.050, then the public advocate may establish for a county containing less than ten (10) Circuit Judges or a group of counties a local public advocacy system by:

(a)[~~(1)~~] Contracting with one (1) or more attorneys, professional service corporations, nonprofit organizations, or an association of attorneys to provide the legal services required in this chapter; provided there are suitable attorneys available who are willing to provide those services for reasonable compensation; or

(b)[~~(2)~~] Providing an office ***of***[~~for district~~] public advocacy, which shall be staffed by ***an assistant***[~~a district~~] public advocate ***who directs the office and*** who shall be an attorney, and any number of assistant[~~ district~~] public advocates and other personnel necessary to perform adequately the functions of said office.

Section 8. KRS 31.170 is repealed, reenacted as a new section of KRS Chapter 31 to be numbered as KRS 31.071, and amended to read as follows:

(1) If the fiscal court of a county***; or legislative body of an urban-county, charter county, or consolidated local government;*** elects to establish and maintain an office for public advocacy, it shall:

(a) Appoint the[~~ district~~] public advocate and any number of assistant[~~ district~~] public advocates necessary to adequately perform the functions of said office.

(b) Prescribe the qualifications of the[~~ district~~] public advocate, his term of office which may not be more than four (4) years and fix the rate of annual compensation for him and his assistants. In order to be qualified for appointment as[~~ district~~] public advocate a person must have been admitted to the practice of law and licensed to practice in the Commonwealth of Kentucky and be competent to counsel and defend a person charged with a crime.

(c) Provide for the establishment, maintenance and support of ***the***[~~his~~] office.

(2) If the fiscal court of a county***; or the legislative body of an urban-county, charter county, or consolidated local government;*** elects to arrange with a nonprofit organization to provide attorneys, the county***, urban-county, charter county, or consolidated local government*** and any cities involved ***shall provide for the establishment, maintenance, and support of that organization or shall***[~~may~~] reimburse the organization for such expenses[~~ as the fiscal courts respectively concerned have determined to be necessary in the representation of needy persons under this chapter, or may provide facilities described in KRS 31.180(2)(a) in addition to or in lieu of said reimbursement~~].

(3) If, in a county where the fiscal court***; or in an urban-county, charter county, or consolidated local government where the legislative body;*** has elected to provide representation under subsection (1) or (2) of this section, after finding that the fiscal court***, or legislative body,*** fails to provide an attorney to a person eligible for representation under KRS Chapter 31, a court assigns, under the court's inherent authority, an attorney to represent a needy person it shall prescribe a reasonable rate of compensation for his services and shall determine the direct expenses necessary to representation for which he would be reimbursed. The county***, urban-county, charter county, or consolidated local government*** shall pay the attorney the amounts so prescribed from the funds made available by the Department of Public Advocacy.

(4) An attorney under subsection (3) shall be compensated for his services with regard to the complexity of the issues, the time involved, and other relevant considerations. However, no fee shall be paid in excess of the prevailing maximum fee per attorney paid by the Department of Public Advocacy for the type of representation provided, and no hourly rate shall be paid in excess of the prevailing hourly rate paid by the Department of Public Advocacy for the type of representation provided.

Section 9. KRS 31.165 is repealed, reanacted as a new section of KRS Chapter 31 to be numbered as KRS 31.085, and amended to read as follows:

All plans authorized by ***this chapter***[~~KRS 31.160~~] shall conform to all rules and regulations promulgated by the Department of Public Advocacy.

Section 10. KRS 31.100 is amended to read as follows:

[~~With regard to the district public advocate and approved local programs of providing counsel for indigents~~]The following terms and standards shall apply, subject to further definition and regulation by the Department of Public Advocacy.

(1) "Detain" means to have in custody or otherwise deprive of freedom of action;

(2) "Expenses," when used with reference to representation under this chapter, includes the expenses of investigation, other preparation, and trial, together with the expenses of any appeal;

(3) "Needy person" or "indigent person" means:

(a) A person, eighteen (18) years of age or older, or emancipated minor under the age of eighteen (18), who at the time his need is determined is unable to provide for the payment of an attorney and all other necessary expenses of representation;

(b) A minor, under the age of eighteen (18), who is party defendant in an action ***of being an habitual runaway from his or her parent or person exercising control or supervision of the child brought under KRS 630.020(1) or of being beyond the control of parents*** brought under KRS 630.020(2), and at the time his need is determined is unable to provide for the payment of an attorney and all other necessary expenses of representation;

(c) An unemancipated minor, under the age of eighteen (18), ***who allegedly has***[~~alleged to have~~] committed an offense as described in KRS 610.010(1)(a), ***or who allegedly is beyond the control of the school as described in KRS 610.010(1)(b), or who allegedly is an habitual truant from school as described in KRS 610.010(1)(c), or who allegedly is an habitual runaway as described in KRS 610.010(1)(d),*** whose custodial parent or guardian at the time the need of the minor is determined is unable to provide for the payment of an attorney and all other necessary expenses of representation, and who cannot personally so provide; or

(d) An unemancipated minor, under the age of eighteen (18), alleged to have committed an offense as described in KRS 610.010(1)(a), ***(b), (c), or (d),*** whose custodial parent or guardian at the time the need of the minor is determined ***has interests adverse to the child relevant to the charged offenses and who*** is able to provide for the payment of an attorney and all other necessary expenses of representation, when such representation is not provided or is not consented to by the unemancipated minor;

(4) "Serious crime" includes:

(a) A felony;

(b) A misdemeanor or offense any penalty for which includes the possibility of confinement[~~ or a fine of five hundred dollars ($500) or more~~];

(c) Any legal action which could result in the detainment of a defendant; and

(d) An act that, but for the age of the person involved, would otherwise be a serious crime.

Section 11. KRS 31.110 is amended to read as follows:

(1) A needy person who is being detained by a law enforcement officer, on suspicion of having committed, or who is under formal charge of having committed, or is being detained under a conviction of, a serious crime, ***or who is accused of having committed a public or status offense or who has been committed to the Department of Juvenile Justice or Cabinet for Families and Children for having committed a public or status offense as those are defined by KRS 630.020(2) or KRS 610.010(1)(a), (b), (c), or (d)*** is entitled:

(a) To be represented by an attorney to the same extent as a person having his own counsel is so entitled; and

(b) To be provided with the necessary services and facilities of representation including investigation and other preparation. The courts in which the defendant is tried shall waive all costs.

(2) A needy person who is entitled to be represented by an attorney under subsection (1) is entitled:

(a) To be counseled and defended at all stages of the matter beginning with the earliest time when a person providing his own counsel would be entitled to be represented by an attorney and including revocation of probation or parole;

(b) To be represented in any appeal; and

(c) To be represented in any other post-conviction***, or, if a minor under the age of eighteen (18), post-disposition*** proceeding that the attorney and the needy person considers appropriate. However, if the counsel appointed in such post-conviction***, or, if a minor under the age of eighteen (18), post-disposition*** remedy, with the court involved, determines that it is not a proceeding that a reasonable person with adequate means would be willing to bring at his own expense, there shall be no further right to be represented by counsel under the provisions of this chapter.

(3) A needy person's right to a benefit under subsection (1) or (2) is not affected by his having provided a similar benefit at his own expense, or by his having waived it, at an earlier stage.

(4) A person, whether a needy person or not, who is a minor under the age of eighteen (18) and who is in the custody of

the Department of Juvenile Justice and is residing in a residential treatment center or detention center is entitled to be represented on a legal claim related to his or her confinement involving violations of federal or state statutory rights or constitutional rights.

Section 12. KRS 31.120 is amended to read as follows:

(1) The determination of whether a person covered by KRS 31.110 is a needy person shall be deferred no later than his first appearance in court or in a suit for payment or reimbursement under ***Section 14 of this Act***~~[KRS 31.150]~~, whichever occurs earlier. Thereafter, the court concerned shall determine, with respect to each step in the proceedings, whether he is a needy person. However, nothing herein shall prevent appointment of counsel at the earliest necessary proceeding at which the person is entitled to counsel, upon declaration by the person that he is needy under the terms of this chapter. In that event, the person involved shall be required to make reimbursement for the representation involved if he later is determined not a needy person under the terms of this chapter.~~[At arraignment, the court shall conduct a nonadversarial hearing to determine whether a person who has requested a public defender is able to pay a partial fee.]~~

(2) In determining whether a person is a needy person and in determining the extent of his, and, in the case of an unemancipated minor under KRS 31.100(3)(c), his custodial parent's or guardian's inability to pay, the court concerned shall consider such factors as***:***

(a) Income***;***~~[,]~~

(b) Source of income;

(c) Property owned***;***~~[,]~~

(d) Number of motor vehicles owned and in working condition;

(e) Other assets;

(f) Outstanding obligations***;***~~[, and]~~

(g) The number and ages of his ***or her*** dependents***;***

(h) The poverty level income guidelines compiled and published by the United States Department of Labor;

(i) Complexity of the case;

(j) Amount a private attorney charges for similar services;

(k) Amount of time an attorney would reasonably spend on the case; and

(l) Payment of money bail, other than a property bond of another, whether deposited by the person or another, to secure the person's release from confinement on the present charge of which he or she stands accused or convicted; and

(m) Any other circumstances presented to the court relevant to financial status.

Release on bail, or any other method of release provided in KRS Chapter 431, shall not necessarily prevent him from being a needy person. In each case, the person, and, if an unemancipated minor under KRS 31.100(3)(c) and (d), his custodial parent or guardian, subject to the penalties for perjury, shall certify by affidavit of indigency which shall be compiled by the pretrial release officer, as provided under KRS Chapter 431 and Supreme Court Rules or orders promulgated pursuant thereto, the material factors relating to his ability to pay in the form the Supreme Court prescribes.

(3)~~[It shall be prima facie evidence that a person is not indigent or needy within the meaning of this chapter if he and, in the case of an unemancipated minor under KRS 31.100(3)(c) and (d), if his custodial parent or guardian:~~

~~(a) Owns real property in the Commonwealth or without the Commonwealth;~~

~~(b) Is not receiving, or if not receiving is not eligible to receive, public assistance payments at the time the affidavit of indigency is executed;~~

~~(c) Has paid money bail (other than a property bond of another), whether deposited by himself or another, to secure his release from confinement on the present charge of which he stands accused or convicted; or~~

~~(d) Owns more than one (1) motor vehicle.~~

~~(4) To the extent that a person covered by KRS 31.110, and, in the case of an unemancipated minor under KRS 31.100(3)(c) and (d), his custodial parent or guardian, is able to provide for an attorney, the other necessary services and facilities of representation, and court costs, the court shall order payment in an amount determined by the court and may order that the payment be made in a lump sum or by installment payments. The determination shall be made at each stage of the proceedings.~~

~~(5) The court shall order all moneys collected pursuant to subsection (4) of this section be paid to the clerk of that court pursuant to the schedule of payment. The clerk shall forward to the Department of Public Advocacy on a monthly basis a copy of all the orders or an electronic report compiled by the Administrative Office of the Courts listing those orders. Additionally, the clerk shall forward to the Department of Public Advocacy on a monthly basis an accounting of and the moneys collected in each case.~~

~~(6)]~~ The affidavit of indigency, to be subscribed and sworn to by the person, and, in the case of an unemancipated minor under KRS 31.100(3)(c), by his custodial parent or guardian, shall be as set out herein ***and contain, at a minimum, the***

following information:

"Commonwealth of Kentucky

County of...............

Affiant........................, being first duly sworn says that he ***or she*** is not now represented by private counsel and that he does not have the money or assets out of which to employ one; that he ***or she*** is indigent and requests the court to appoint counsel.

Affiant states that he or she is presently (fill in the blank with one (1) of the following: unemployed, employed full-time, employed part-time, or employed on a seasonal basis).............

Affiant states that his ***or her weekly*** income is ....; ***and*** that he ***or she receives (circle any of the following which apply and fill in the blank if necessary)***

Welfare

Food stamps

Social Security

Workers' compensation

Unemployment

Retirement disability

Other.......................

Affiant states that he or she owns the following property:

Description	Value
....	....
....	....
....	.........................;

Affiant states that he ***or she*** has the following dependents:

Name	Age	Relationship
....	....	....
....	....	....
....	....	.........................;

Affiant states[~~and~~] that he ***or she*** has the following obligations:

To whom owed	Amount owing
....	....
....	....
....	....

....

Affiant understands and has been advised that he or she may be held responsible for the payment of part of the cost of legal representation. Affiant also understands that the cost of payment for legal representation will be determined by the judge after considering affiant's financial condition, what private attorneys charge for similar services, how complicated the affiant's case is, and the amount of time affiant's attorney spends on affiant's case.

Signature of affiant

Subscribed and sworn to before me this ...., day of ...., 20[~~19~~].....

....

Signature and title of officer
administering the oath

Perjury Warning: ***Affiant understands that*** any ***person knowingly***[~~persons~~] making false statements in the above affidavit shall be subject to the penalties for perjury under KRS Chapter 523, the maximum penalty for which is five (5) years imprisonment. "***Affiant declares under penalty of perjury that he or she has read the above affidavit and that it is true and complete to the best of his or her knowledge.***"

Section 13. KRS 31.185 is amended to read as follows:

(1) Any defending attorney operating under the provisions of this chapter is entitled to use the same state facilities for the evaluation of evidence as are available to the attorney representing the Commonwealth. If he ***or she*** considers their use impractical, the court concerned may authorize the use of private facilities to be paid for on court order ***from the special account of the Finance and Administration Cabinet***[~~by the county~~].

(2) ***Upon request, the court shall permit the request for funds on behalf of the needy person be made by the defending***

attorney ex parte and on the record.

(3) Any direct expense, including the cost of a transcript or bystander's bill of exceptions or other substitute for a transcript that is necessarily incurred in representing a needy person under this chapter, is a charge against the county, urban-county, charter county, or consolidated local government on behalf of which the service is performed and shall be paid from the special account established in subsection (4) of this section and in accordance with procedures provided in subsection (5) of this section. However, such a charge shall not exceed the established rate charged by the Commonwealth and its agencies.

(4) The fiscal court of each county or legislative body of an urban-county government shall annually appropriate twelve and a half cents ($0.125) per capita of the population of the county, as determined by the Council of Local Governments' most recent population statistics, to a special account to be administered by the Finance and Administration Cabinet to pay court orders entered against counties pursuant to subsection (1) *or (3)* of this section. The funds in this account shall not lapse and shall remain in the special account.

(5)[~~(3)~~] The Finance and Administration Cabinet shall pay all court orders entered pursuant to subsection (1) *or (3)* of this section from the special account until the funds in the account are depleted. If in any given year the special account including any funds from prior years is depleted and court orders entered against counties pursuant to subsection (1) *or (3)* of this section for that year or any prior year remain unpaid, the Finance and Administration Cabinet shall pay those orders from the Treasury in the same manner in which judgments against the Commonwealth and its agencies are paid.

(6) Expenses incurred in the representation of needy persons confined in a state correctional institution shall be paid from the special account established in subsection (4) of this section and in accordance with the procedures provided in subsection (5) of this section.

(7)[~~(4)~~] Only court orders entered after July 15, 1994, shall be payable from the special account administered by the Finance and Administration Cabinet or from the Treasury as provided in subsections (2) and (3) of this section.

SECTION 14. A NEW SECTION OF KRS CHAPTER 31 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 31.211:

(1) At arraignment, the court shall conduct a nonadversarial hearing to determine whether a person who has requested a public defender is able to pay a partial fee for legal representation, the other necessary services and facilities of representation, and court costs. The court shall order payment in an amount determined by the court and may order that the payment be made in a lump sum or by installment payments to recover money for representation provided under this chapter. This partial fee determination shall be made at each stage of the proceedings.

(2) If the partial fee, or any portion thereof, is not paid by the due date, the court's order is a civil judgment subject to collection under Civil Rule 69.03 and KRS Chapter 426.

(3) All moneys received by the public advocate from indigent defendants pursuant to subsection (1) of this section shall be credited to the public advocate fund of the county in which the trial is held if the county has a plan pursuant to Section 6 of this Act or subsection (1) of Section 7 of this Act which has been approved by the public advocate pursuant to Section 5 of this Act. Moneys credited to a county public advocate fund may be used only to support the public advocate program of that county.

(4) All moneys collected by the public advocate from indigent defendants pursuant to subsection (1) of this section in counties with a local public advocacy system established by the public advocate pursuant to subsection (2) of Section 7 of this Act shall be credited to the Department of Public Advocacy special trust and agency account to be used to support the state public advocacy system.

(5) If a person receives legal assistance or other benefit under this chapter to which he or she is not entitled or if a person receives legal assistance under this chapter and is financially able to pay for representation on the date the suit is brought, the public advocate, on behalf of the Commonwealth, shall recover, where practical, payment or reimbursement, as the case may be, from the person who received the legal assistance or his or her estate. Suit shall be brought within five (5) years after the date on which the aid was received.

(6) Any attorney participating in a public advocacy plan shall forward all information which he or she may have which indicates that payment or reimbursement may be obtained pursuant to subsection (5) of this section.

(7) The duty of recovery contemplated by subsection (5) of this section shall extend against persons who were the custodial parents or guardians of unemancipated minors at the time these minors were deemed needy as defined in subsection (3)(c) or (3)(d) of Section 10 of this Act.

(8) All moneys collected under this section shall be placed in a special trust and agency account for the Department of Public Advocacy, and the funds shall not lapse.

Section 15. KRS 31.250 is repealed and reenacted as a new section of KRS Chapter 31, to be numbered as KRS 31.215, to read as follows:

(1) Except for attorneys appointed pursuant to KRS 620.100, 625.041, 625.080, and 31.120, no attorney participating in a public advocacy plan shall accept any fees for the representation of any needy person as defined in this chapter from that person or anyone for his benefit and the fees for representation of that person shall be limited to the fees provided in this chapter. "Fees" shall include cash, property, or other pecuniary benefits of any kind.

(2) Any attorney participating in a public advocacy plan who receives or attempts to collect a fee from a needy person as prohibited by subsection (1) above shall be guilty of a Class D felony.

Section 16. KRS 31.115 is repealed and reenacted as a new section of KRS Chapter 31, to be numbered as KRS 31.219, to read as follows:

(1) It shall be the duty of the attorney representing a client under any public advocacy plan to perfect an appeal if his client requests an appeal.

(2) After the attorney has filed a notice of appeal as required by the Rules of Criminal Procedure, he shall forward to the Department of Public Advocacy a copy of the final judgment, the notice of appeal, a statement of any errors committed in the trial of the case which should be raised on appeal, and a designation of that part of the record that is essential to the appeal.

(3) No attorney participating in any public advocacy plan shall be compensated for his services until he has perfected an appeal for a client who requests an appeal and has filed the information required in subsection (2) of this section.

(4) Any public advocacy attorney who is representing a client on appeal who after a conscientious examination of said appeal believes the appeal to be wholly frivolous after careful examinations of the record may request the court to which the appeal has been taken for permission to withdraw from the case. The attorney must file with that request a brief which sets forth any arguments which might possibly be raised on appeal. A copy of the request for permission to withdraw and the brief must be served upon the client in sufficient time so that the client may raise any argument he chooses to raise.

Section 17. KRS 31.220 is amended to read as follows:

This chapter applies only to representation in the courts of this state, except that it does not prohibit a defending attorney from representing a needy person in a federal court of the United States, if:

(1) The matter arises out of or is related to an action pending or recently pending in a court of criminal jurisdiction of the state; or

(2) Representation is under a plan of the United States District Court as required by the Criminal Justice Act of 1964 (18 U.S.C. 3006A)~~[and is approved by the fiscal court]~~.

Section 18. KRS 31.070 is repealed and reenacted as a new section of KRS Chapter 31, to be numbered as KRS 31.235, to read as follows:

If a court, after finding that the Department of Public Advocacy fails to provide an attorney to a person eligible for representation under KRS Chapter 31, appoints, under the court's inherent authority, an attorney to provide representation to the needy person, the public advocate is hereby authorized to pay reasonable and necessary fees and expenses subject to the following limitations:

(1) No fee shall be paid in excess of the prevailing maximum fee per attorney paid by the Department of Public Advocacy for the type of representation provided, and no hourly rate shall be paid in excess of the prevailing hourly rate paid by the Department of Public Advocacy for the type of representation provided; and

(2) Each fee plus expenses incurred in the defense shall be presented by the defense attorney to the Circuit Judge who shall review the fee and expenses request and shall approve, deny, or modify the amount of compensation and fee listed therein. After final approval of the fee and expenses the Circuit Judge shall, if state compensation is desired, certify the amount and transmit the document to the public advocate who shall review the fee and expense request and shall approve, deny, or modify the request. The request as approved or modified shall then be paid. Requests for payment of assigned counsel by the state shall be denied if the district has exceeded the amount of funds which may be allotted to it, if the district plan has not been approved, or if the public advocate finds that compensation is otherwise not warranted. The decision of the public advocate in all matters of fee and expense compensation shall be final.

Section 19. KRS 31.230 is repealed and reenacted as a new section of KRS Chapter 31, to be numbered as KRS 31.241, to read as follows:

The protections provided by this chapter do not exclude any protection or sanction that the law otherwise provides.

Section 20. KRS 18A.195 is amended to read as follows:

(1) A state employee who is authorized to work one (1) or more hours in excess of the prescribed hours of duty shall be granted compensatory leave on an hour-for-hour basis. Upon the written request of an employee who is not exempt from the provisions of the Federal Fair Labor Standards Act, 29 U.S.C. sec. 201 et seq., an appointing authority may grant compensatory time, in lieu of overtime pay, at the rate of one and one-half (1.5) hours for each hour the employee is authorized to work in excess of forty (40) hours in a work week. An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his compensatory leave in the receiving agency.

(2) Any employee who leaves state service shall be paid for the balance of unused compensatory time.

(3) Attorneys in the Department of Public Advocacy who accumulate two hundred forty (240) hours of compensatory leave shall not be paid for fifty (50) hours at the regular rate of pay but shall have fifty (50) hours converted to sick leave.

Section 21. The following KRS sections are repealed:

31.025 Liability insurance for full-time public advocates.

31.051 Moneys from indigent defendants credited to fund of county where trial held -- Use -- Administrative fee assessed on

persons for whom counsel is provided.
31.080 Public advocate -- Solicitation of funds for programs.
31.090 Funding deficiencies.
31.130 Assignment of substitute attorney.
31.150 Recovery of money wrongfully received.
31.160 Provisions for joint representation by counties, cities and districts.
31.190 Appropriation of money by fiscal court and cities.
31.180 Facilities and services available to public advocates.
31.200 Expenses chargeable to county and to public advocate.
31.210 Annual reports -- Records.
31.240 Compensation by counties of public advocates -- State contributions.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Stumbo moved to suspend the rules to allow for a Rules Committee Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 589, HB 383, HB 451, HB 481, HB 523, HB 595, HJR 25, HCR 69, HJR 86, HB 469,** and **HCR 104** have been posted for passage in the Orders of the Day for February 20, 2002.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 455, HB 519, HB 542**

Orders of the Day

HB 200, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved the adoption of the Committee Substitute to **HB 200**. Agreed.

Representative Bruce moved that **HB 200**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 19, 2002, roll call on **HB 200** - Appendix.)

HB 200, by way of Committee Substitute, was passed.

Representative Bruce moved to adopt Committee Title Amendment No. 1 to **HB 200**. Agreed.

Representative Bruce moved that the vote by which **HB 200**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 557 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that **HB 557** be passed.

On the roll call the vote was: **Yeas 71, Nays 16**. (See February 19, 2002, roll call on **HB 557** - Appendix.)

HB 557 was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 557** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 599 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved that **HB 599** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 19, 2002, roll call on **HB 599** - Appendix.)

HB 599 was passed and the title agreed to.

Representative Haydon moved that the vote by which **HB 599** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 607 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved that **HB 607** be passed.

On the roll call the vote was: **Yeas 91, Nays 3**. (See February 19, 2002, roll call on **HB 607** - Appendix.)

HB 607 was passed and the title agreed to.

Representative Bowling moved that the vote by which **HB 607** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 31 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that **HCR 31** be adopted.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 19, 2002, roll call on **HCR 31** - Appendix.)

HCR 31 was adopted.

Representative Webb moved that the vote by which **HCR 31** was adopted be reconsidered and said motion be placed on the table. Agreed.

HR 107 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoover moved that **HR 107** be adopted.

On the roll call the vote was: **Yeas 93, Nays 0**. (See February 19, 2002, roll call on **HR 107** - Appendix.)

HR 107 was adopted.

Representative Hoover moved that the vote by which **HR 107** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 428, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of the Committee Substitute to **HB 428**. Agreed.

Representative Wilkey moved the adoption of Floor Amendment 1 to the Committee Substitute to **HB 428**. Agreed.

Representative Wilkey moved that **HB 428**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 19, 2002, roll call on **HB 428** - Appendix.)

HB 428, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 428**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 378 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 378** be placed back in the Orders of the Day and retain its position. Agreed.

HB 520 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 520** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 19, 2002, roll call on **HB 520** - Appendix.)

HB 520 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 520** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 452, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of Floor Amendment No. 3 to **HB 452**. Agreed.

Representative Wilkey moved the adoption of Floor Amendment No. 4 to **HB 452**. Agreed.

Representative Marzian moved the adoption of Floor Amendment No. 1 to **HB 452**. Agreed.

Representative Wilkey moved that **HB 452**, as amended, be passed.

On the roll call the vote was: **Yeas 53, Nays 41**. (See February 19, 2002, roll call on **HB 452** - Appendix.)

HB 452, as amended, was passed and the title agreed to.

Representatives Heleringer and Webb asked that the Journal reflect their abstention from voting on **HB 452**, in accordance with Section 57 of the Kentucky Constitution

Representative Wilkey moved that the vote by which **HB 452**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 511, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meeks moved the adoption of the Committee Substitute to **HB 511**. Agreed.

Representative Riner moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 511**.

Representative Bowling moved that **HB 511** be laid on the Clerk's Desk.

Representative Lindsay inquired whether Floor Amendment No. 1 to the Committee Substitute to **HB 511** was germane.

The Speaker ruled that Floor Amendment No. 1 to the Committee Substitute **HB 511** is germane, and stated that neither **HB 511** or the Floor Amendment No. 1 have a fiscal impact.

Representative Bowling moved to withdraw the motion to lay **HB 511** on the Clerks Desk. Agreed.

Representative Riner moved to adopt Floor Amendment No. 1 to the Committee Substitute to **HB 511**. Agreed.

Representative Meeks moved that **HB 511**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 49, Nays 39**. (See February 19, 2002, roll call on **HB 511** - Appendix.)

HB 511, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Meeks moved that the vote by which **HB 511**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 170 with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its concurrence or non concurrence in the Senate Committee Substitute. Agreed.

The Senate Committee Substitute to **HB 170**, is as follows:

HB 170, AN ACT relating to Medicaid dispensing fees and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.561 is amended to read as follows:

(1) The cabinet shall submit ***a***[~~an annual~~] report to the Governor and the Legislative Research Commission on the dispensing of prescription medications to persons eligible under KRS 205.560, on or before ***October 31, 2003, and every third year thereafter***[~~December 1 of each year~~]. Each report shall include a research study ***on costs incurred by pharmacies in the provision of prescription medications to Medicaid eligible recipients including, but not limited to, dispensing fee costs and drug acquisition costs***[~~to determine the average cost of dispensing prescription medications, including associated administrative costs, and the average cost of acquiring drugs for eligible recipients under the provisions of KRS 205.560~~], the current level of dispensing fee provided by the cabinet ***and other third-party payors***, and an estimate of ***any additional*** revenues ***needed***[~~required~~] to[~~ adequately~~] adjust reimbursement to[~~ cover costs for~~] pharmacies. The report shall also include current data on the most utilized and abused drugs in ***the Kentucky*** Medicaid ***program***, a determination of factors causing high drug costs and drug usage rates of Medicaid recipients,[~~objectives and timelines for cost containment in the Medicaid drug program, comparative data from other states,~~] and ***the***[~~cost~~] effectiveness of the drug formulary and prior authorization process ***in managing drug costs***. The [~~annual ~~]report shall be ***reviewed by***[~~developed with the advice of~~] the Drug Management Review ***Advisory*** Board created under KRS 205.5636.

(2) Prior to data collection ***for*** and analysis of ***the***[~~any~~] research study ***specified in subsection (1) of this section***[~~to determine the cost of dispensing prescription medications and the cost of acquiring drugs for Medicaid eligible recipients~~], the Cabinet for Health Services and any person or entity holding a contract to perform the study shall report to the Interim Joint Committee on Health and Welfare ***with***[~~regarding~~] the proposed research methodology for carrying out subsection (1) of this section.

(3) ***The research study specified in subsection (1) of this section***[~~Any research study to determine the cost of dispensing prescription medications and the cost of acquiring drugs for Medicaid eligible recipients~~] shall include the following components:

(a) Recent academic review of the literature, previous research performed for the Department for Medicaid Services, and research from other states to determine the relevant factors[~~ or characteristics~~] to include in the study ***methodology***;

(b) Analysis of relevant factors[~~ or characteristics~~] that influence dispensing and acquisition costs including, but not limited to:

1. Urban versus rural location;
2. Chain versus independent affiliation;
3. Total prescription volume;[~~ and~~]
4. Medicaid volume as a percent of the total volume; ***and***
5. Profit;

(c) ***A***[~~Sufficient~~] representative sample ***of sufficient size*** appropriately stratified to make valid estimates of the effects of each of the relevant factors on dispensing and acquisition costs;

(d) Standard error for each estimate;

(e) Calculation of a ninety-five percent (95%) confidence interval for each sample estimate;

(f) ***Review***[~~Reports~~] of statistical tests of significance at the five percent (5%) significance level to determine if the variation in dispensing and acquisition costs ***occurs***[~~occur~~] across the stratification types included in the study;

(g) ***A test***[~~Reports of test results~~] for normality;

(h) ***Methodology***[~~Reports of methods~~] to identify and exclude outliers;[~~ and~~]

(i) Analysis of the cost of administering the prior authorization program by the Department for Medicaid Services***; and***

(j) Comparison of the differences in reimbursement for dispensing fee costs and for drug acquisition costs between

the Kentucky Medicaid program, other states' Medicaid programs, and commercial payors[~~and factors which cause a discrepancy between the cost of dispensing prescription medications and the cost of acquiring drugs for Medicaid eligible recipients as compared to the cost of dispensing prescription medications and acquiring drugs for patients within the commercial market~~].

(4) ***A reasonable fee for dispensing prescription medications shall be determined by the Department for Medicaid Services based on a review of:***

(a) The findings of the research study required under subsection (1) of this section;

(b) Dispensing fee reimbursement used by other state Medicaid programs; and

(c) Dispensing fee reimbursement used by commercial payors[~~The findings of any research study and the annual report required under this section shall be used to establish the fees for dispensing prescription medications to Medicaid eligible recipients. The dispensing fees shall reflect the average cost of dispensing prescription medications to Medicaid eligible recipients in accordance with the annual report~~].

Section 2. KRS 205.6316 is amended to read as follows:

The Cabinet for Health Services shall review the procedures for medical assistance reimbursement of pharmacists to reduce fraud and abuse. The cabinet shall by promulgation of administrative regulation, pursuant to KRS Chapter 13A, establish the following:

(1) Point-of-sale computer technology, with integration of data at the physician's office and the pharmacy, that will permit prospective drug utilization review;

(2) Usage parameters by drug class to enable medical necessity and appropriateness reviews to be conducted prior to payment;

(3) A dialog among the Department for Medicaid Services, the Kentucky Medical Board of Licensure, and the Kentucky Board of Pharmacy, to develop recommendations for legislation for the 1996 Regular Session of the General Assembly that will strengthen the generic substitution laws for prescription medication; and

(4) A dispensing fee for each prescription ***considering***[~~in accordance with~~] the findings of the ***research study***[~~annual~~] report submitted by the cabinet pursuant to KRS 205.561.

Section 3. Whereas the high cost of pharmacy-related expenditures is having a significant effect on an already overburdened Medicaid budget, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Representative Marzian moved that the House concur in the Senate Committee Substitute to **HB 170**. Agreed

Representative Marzian moved that **HB 170**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See February 19, 2002, Message received on roll call on **HB 170** - Appendix)

HB 170, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 170**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 103, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed for concurrence or non concurrence in the Senate Floor Amendment No. 2. Agreed.

The Senate Floor Amendment No. 2 to **HB 103** is as follows:

On page 1, line 24, after "*(3)*" by deleting "***The***" and inserting in lieu thereof the following:

"***One (1) voting committee member shall be appointed, and may be reappointed, by the Governor from a list of three (3) nominees received from the President of the Senate, and one (1) voting committee member shall be appointed, and may be reappointed, by the Governor from a list of three (3) nominees received from the Speaker of the House of Representatives. The remaining ten (10)***".

Representative J. Lee moved that the House concur in Senate Floor Amendment No. 2 to **HB 103**. Agreed

Representative J. Lee moved that **HB 103,** as amended, by the Senate, be passed.

On the roll call the vote was: **Yeas 92, Nays 0.** (See February 19, 2002, roll call on **HB 103** - Appendix.)

HB 103, as amended, by the Senate, was passed and the title agreed to.

Representative J. Lee moved that the vote by which **HB 103**, as amended, by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, Communications (Continued)

Representative Stumbo moved that the rules be suspended for Introductions and Committee Reports. Agreed

Introduction of Bills and Resolutions (Continued)

HB 693, by Representatives Burch, Jenkins, and De. Butler: AN ACT relating to denturists.

HB 694, by Representative Stewart: AN ACT relating to solid waste.

HB 695, by Representative Stein: AN ACT relating to minimum wage.

HB 696, by Representatives Stein, Napier, Damron, Colter, and Bowling: AN ACT relating to retirement.

HB 697, by Representatives A. Arnold and Gray: AN ACT relating to proposing to amend Sections 30, 31, and 160 of the Constitution of Kentucky relating to terms of office.

HB 698, by Representatives Crimm, Burch, and Nunn: AN ACT relating to health maintenance organization.

HB 699, by Representatives Webb, Crenshaw, Bather, and Meeks: AN ACT relating to a civil action against the Commonwealth for wrongful imprisonment.

HB 700, by Representative Webb: AN ACT relating to Medicaid payment for health care services in a primary care center, federally qualified health center, or rural health clinic.

HB 701, by Representative Callahan: AN ACT relating to death certificates.

HB 702, by Representatives Cherry and Geveden: AN ACT relating to land surveys by state and local officers and employees.

HB 703, by Representative Stacy: AN ACT relating to absentee voting for persons with disabilities.

HB 704, by Representatives Collins, Adkins, Jenkins, and Hall: AN ACT relating to classified employees in local school districts.

HB 705, by Representatives Collins, Adkins, and Hall: AN ACT relating to oil and gas conservation.

HB 706, by Representatives Collins, Hall, and Jenkins: AN ACT relating to classified employees in local school districts.

HB 707, by Representative Stacy: AN ACT authorizing the payment of certain claims against the state which have been duly audited and approved according to law, and have not been paid because of lapsing or insuficiency of former appropriations against which claims where chargeable, making an appropriation therefor, and declaring an emergency.

HCR 149, by Representative Nunn: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the network of publicly funded health and human services in this Commonwealth.

HR 150, by Representative J. Turner: A RESOLUTION adjourning the House of Representatives in honor of Pearl Fraley Lowe upon the occasion of her one hundred and fifth birthday.

HCR 151, by Representatives C. Belcher and Crall: A CONCURRENT RESOLUTION directing the Legislative Research Commission to establish a task force to examine the development of a physicians registry and suggest a strategy for its completion.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Local Government: **HB 615, HB 533, HB 471**

Labor and Industry: **HB 625, HB 631, HB 633, HB 656**

Health and Welfare: **SB 125, HB 546, HB 597, HB 616, HB 673, SB 90**

Banking and Insurance: **HCR 138**

Agriculture and Small Business: **HB 654, HB 682**

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved to reassign **HB 667** to the Committee on Judiciary. Agreed.

Representative Stumbo moved to waive the posting requirement on **HCR 138**. Agreed

Representative Feeley moved to withdraw Floor Amendment No. 1 on **HB 677**. Agreed.

Representative Yonts moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Yonts moved that his vote be changed from "nay" to "abstain" on **HB 452**. Agreed.

Representative C. Belcher moved to withdraw **HB 616**. Agreed.

Representative Riggs moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Riggs moved that he be recorded as voting "yea" on **HB 200**. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nesler moved that he be recorded as voting "nay" on **HB 511**. Agreed.

Representative Adkins moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Adkins moved that he be recorded as voting "yea" on **HB 103**. Agreed.

Representative Adkins moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Adkins moved that he be recorded as voting "nay" on **HB 116** and **HB 511**. Agreed.

Representative Colter moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Colter moved that she be recorded as voting "yea" on **HB 189, HB 190, HB 198, HB 436, HB 473, HB 621, HB 526, HB 470, HB 109, HB 381, HB 531, HCR 52, HCR 53, HCR 54, HCR 55, HCR 57, HCR 58,** and **HCR 59**. Agreed.

Representative Stein moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Stein moved that she be recorded as voting "yea" on **HB 198, HB 436, HB 621, HB 526, HB 470, HB 381, HB 457, HB 531, HB 141** (vote recorded prior to bill being reported out of committee; bill never placed before the house for passage), **HB 142, HCR 52, HCR 53, HCR 54, HCR 55, HCR 57, HCR 58,** and **HCR 59**. Agreed.

Representative Westrom moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Westrom moved that she be recorded as voting "yea" on **HB 189, HB 190, HB 198, HB 381, HB 436, HB 451, HB 470, HB 473, HB 526, HB 531, HB 621, HCR 52, HCR 53, HCR 54, HCR 55, HCR 57, HCR 58, HCR 59,** and **HCR 109**. Agreed.

Representative Brinkman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Brinkman moved that his vote be changed from "yea" to "nay" on **HB 557**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 372**, by Representative Marzian:

On page 4, line 7, after ";" by inserting "***or***"; and

On page 4, line 8 after "***3.***" by deleting everything on line 8; and

On page 4, by deleting lines 9, 10, and 11 in their entirety and inserting in lieu thereof "***The facilities involve the reconstruction, restoration, rehabilitation, or upgrade of a full-service lodging facility having not less than five hundred (500) guest rooms, with reconstruction, restoration, rehabilitation, or upgrade costs exceeding ten million dollars ($10,000,000).***"

Floor Amendment No. 1 to the Committee Substitute to **HB 605**, by Representative Crimm:

On page 2, after line 4, by adding the following new sections:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

(1) In order to promote Kentucky-produced and manufactured distilled spirits and wines, other provisions of the Kentucky Revised Statutes to the contrary notwithstanding, there is created a Kentucky retailer package license to be used exclusively by retailers engaged in the promotion of Kentucky-produced or manufactured merchandise.

(2) The Kentucky retailer package license shall authorize a small retailer to acquire any Kentucky-produced liquor, wine, or malt beverage to be sold by the package in conjunction with other Kentucky-produced products. A holder of a Kentucky retailer package license may acquire Kentucky-produced alcoholic beverages directly from the producer if permitted by law or, if not permitted by law, from licensed wholesalers or distributors.

(3) The Kentucky retailer package license shall be a non-quota license.

Section 3. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

(1)	Distiller's license, per annum	$2,500.00
(2)	Rectifier's license, per annum	$2,500.00
(3)	Blender's license, per annum	$2,500.00
(4)	Vintner's license, per annum	$1,000.00
(5)	Small winery license, per annum	$100.00
	(a) Small winery off-premises retail license, per annum	$25.00
(6)	Wholesaler's license, per annum	$2,000.00
(7)	Retail package license, per annum:	
	(a) In counties containing cities of the first class	$800.00
	(b) In counties containing cities of the second class	$700.00
	(c) In counties containing cities of the third class	$600.00
	(d) In counties containing cities of the fourth class	$500.00
	(e) In all other counties	$400.00
(8)	Retail drink license, motel drink license, restaurant drink license, or supplemental bar license, per annum:	
	(a) In counties containing cities of the first class	$1,000.00
	(b) In counties containing cities of the second class	$700.00
	(c) In counties containing cities of the third class	$600.00
	(d) In counties containing cities of the fourth class	$500.00
	(e) The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.	
(9)	Transporter's license, per annum	$100.00
(10)	Dining car license, per annum	$100.00
(11)	Special nonbeverage alcohol vendor's license, per annum	$50.00
(12)	Special industrial alcohol license, per annum	$50.00
(13)	Special nonindustrial alcohol license, per annum	$50.00
(14)	Special agent's or solicitor's license, per annum	$25.00
(15)	Special storage or warehouse license and bottling house storage license, per annum	$500.00
(16)	Special temporary liquor license, per event	$100.00
(17)	Special private club license, per annum	$300.00

The fee for each special private club license shall be the fee set out in this subsection; however, there shall be no charge for each special private club license issued in excess of six (6) that is issued to the same licensee at the same premises.

(18)	Special Sunday retail drink license, per annum	$500.00
(19)	Nonresident, special agent or solicitor's license, per annum	$100.00
(20)	Transport permit, nonresident license, per annum	$100.00
(21)	Through transporter's license, per annum	$100.00
(22)	Freight forwarder's license, per annum	$100.00
(23)	Restaurant wine license, per annum	$500.00
(24)	Farm winery license, per annum	$100.00
	(a) Farm winery, off-premises retail outlet license, per annum	$25.00
(25)	Special temporary wine license, per event	$50.00
(26)	Caterer's license, per annum	$800.00
(27)	***Kentucky retailer package license***	***$200.00***
(28)	Souvenir retail liquor license, per annum	$500.00

(29)[~~(28)~~]	Special temporary distilled spirits and wine auction license, per event	$100.00
(30)[~~(29)~~]	Airport drink license, per annum	$1,000.00
(31)[~~(30)~~]	Convention center or convention hotel complex license, per annum	$5,000.00
(32)[~~(31)~~]	Extended hours supplemental license, per annum	$2,000.00
(33)[~~(32)~~]	Horse race track license, per annum	$2,000.00
(34)[~~(33)~~]	Automobile race track license, per annum	$2,000.00
(35)[~~(34)~~]	Air or rail system license, per annum	$2,000.00
(36)[~~(35)~~]	Riverboat license, per annum	$1,000.00
(37)[~~(36)~~]	Bottling house license, per annum	$1,000.00
(38)[~~(37)~~]	Hotel in-room license, per annum	$200.00
(39)[~~(38)~~]	Bonded warehouse license, per annum	$1,000.00
(40)[~~(39)~~]	Air transporter liquor license, per annum	$500.00
(41)[~~(40)~~]	Sampling license, per annum	$100.00
(42)[~~(41)~~]	Replacement or duplicate license	$25.00

(43)[~~(42)~~] Other special licenses the board finds necessary for the proper regulation and control of the traffic in distilled spirits and wine and provides for by administrative regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

A nonrefundable application fee of fifty dollars ($50) shall be charged to process each new application under this section, except for subsections (5), (9), (11), (12), (13), (14), (16), (19), (20), (21), (22), (24), (25), (28), and (41). The application fee shall be applied to the licensing fee if the license is issued; otherwise it shall be retained by the department.".

Floor Amendment No. 1 to **HB 249**, by Representative Treesh:

On page 5, after line 9, insert the following:

SECTION 2. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

"***(1) No pharmacist, who states in writing, based on moral, religious, or professional grounds, his or her objection to the dispensing of medication or devices prescribed for the purpose of terminating a pregnancy, shall be required to or be held liable for refusal to perform or participate in the dispensing of medications or devices that may terminate a pregnancy.***

(2) It shall be unlawful discriminatory practice for:

(a) Any person to impose penalties, or take disciplinary action against, or deny or limit public funds, licenses and certification degrees or other approvals or documents of qualification to any pharmacist for his or her refusal, based on objections of moral, religious, or professional grounds to participate and cooperate in the dispensing of any medication or device that may terminate a pregnancy; and

(b) Any public or private agency, institution, person, including a medial, nursing, or other school, or hospital to deny admission to, impose any burdens in terms of conditions of employment upon, or otherwise discriminate against any applicant for admission thereto or any pharmacist on account of his or her willingness or refusal to dispense or distribute medication or devices that may terminate pregnancy, where the refusal is based on moral, religious, or professional grounds.".

Floor Amendment No. 1 to the Committee Substitute to **HB 523**, by Representative Vincent:

On page 3, from line 12 through page 8, line 6, delete Sections 2, 3, and 4 in their entirety and insert in lieu thereof the following:

"Section 1. KRS 213.041 is amended to read as follows:

(1) In order to promote and maintain nationwide uniformity in the system of vital statistics, the forms of certificates and reports required by this chapter, or by administrative regulations ***promulgated***[~~adopted~~] hereunder, shall include, as a minimum, the items recommended by the federal agency responsible for national vital statistics.

(2) Each certificate, report, and other documents required by this chapter shall be[~~ on a form or~~] in a ***uniform*** format prescribed by the cabinet with due consideration for national uniformity. All certificates shall be typewritten with the exception of required signatures which shall be written legibly in unfading black ink. ***All certified copies shall have security features that deter the document from being altered, counterfeited, duplicated, or simulated without ready***

detection.

(3) All forms and procedures used in the issuance of certified copies of vital records shall be uniform and provided by or approved by the state registrar.

(4)[~~(3)~~] No certificate shall be held to be complete and correct that does not supply all items of information called for therein or satisfactorily account for their omission, except as provided in KRS 199.570(3). If a certificate is incomplete, the local registrar shall immediately notify the responsible person and require that person to supply the missing items, if that information can be obtained.

(5)[~~(4)~~] All vital records shall contain the data required for registration.

(6)[~~(5)~~] No person shall charge or collect from any member of a family in which a birth or death occurs, any fee for completing and filing a report, or any other act or duty imposed upon them by this chapter.

Section 2. KRS 213.131 is amended to read as follows:

(1) To protect the integrity of vital records, to insure their proper use, and to insure the efficient and proper administration of the system of vital statistics, it shall be unlawful for any person to permit inspection of, or to disclose information contained in vital records or to copy or issue a copy of all or part of any record except as authorized by this chapter ***or***[~~,~~] by ***an administrative*** regulation ***promulgated under this chapter***, or by order of a court of competent jurisdiction. Administrative regulations ***promulgated***[~~adopted~~] by the cabinet shall provide for adequate standards of security and confidentiality of vital records and shall conform to subsection ***(7)***[~~(4)~~] of this section.

(2) The state registrar shall ***not permit inspection of, or disclose information contained in, vital records, or copy or issue a copy of all or part of the record unless the registrar is satisfied that the applicant is authorized to obtain the copy or abstract of the record***[~~prepare annually an alphabetical list of all persons registered as born in the preceding year. The list shall show the person's name, the mother's maiden name, and the date and county of birth. This list shall be an open record subject to inspection by the public upon request~~].

(3) ***A family member doing genealogical research and a genealogist representing a family member may obtain copies of vital records needed, other than an original birth certificate of an adopted person, for his or her research. Unless the registrant is deceased, appropriate authorization shall be required from the registrant, family member, or authorized representative for the release of the vital record***[~~The state registrar shall prepare annually an alphabetical list of all persons registered who die in the Commonwealth. This list shall show the name of the deceased and the date and county of death and shall be an open record subject to inspection by the public upon request~~].

(4) The ***state registrar, in a manner consistent with KRS 61.870 to 61.884, shall permit the inspection of information contained in vital records by members of the media who, in the scope of their employment, so request.***

(5) The state registrar shall permit inspection of, or disclose information contained in, vital records, other than an original birth certificate of an adopted person, or copy or issue a copy of all or part of the record to the registrant or his or her spouse, children, parents, or guardian, or an authorized representative.

(6) The biological parents of adopted children, when neither has custody, and commercial firms or agencies requesting listings of names and addresses, shall not be authorized to obtain copies or abstracts of the vital record.

(7) The Cabinet for Health Services may ***promulgate administrative regulations in accordance with KRS Chapter 13A that*** authorize[~~ by regulation~~] the disclosure of information contained in vital records for research and official administrative purposes, if:

(a) All information identifying persons named on the certificate is withheld or removed;

(b) The information is requested by a federal, state, county, or municipal agency of government which needs the data or information in the conduct of official duties; or

(c) The cabinet has prepared, in writing, a statement of the conditions under which the data or records will be used and received an agreement signed by a responsible agent of the research organization agreeing to meet with and conform to the conditions.

(8)[~~(5)~~] If one hundred (100) years have elapsed after the date of birth, or fifty (50) years have elapsed after the date of death, the records of these events in the custody of the state registrar shall become public records and information shall be made available in accordance with ***administrative*** regulations which shall provide for continued safekeeping of the records.

Section 3. KRS 213.136 is amended to read as follows:

(1) The state registrar shall upon receipt of an application issue a certified copy of a vital record***, other than an original birth certificate of an adopted person,*** in the registrar's custody or a part thereof to ***a registrant or his or her spouse, children, parents, or guardian, or an authorized representative. Commonwealth's attorneys and county attorneys are authorized, upon application, to receive a certified copy of a vital record relating to a case under their respective jurisdictions. Other persons may be authorized to obtain certified copies if they demonstrate that the record is needed for the determination or protection of their personal or property rights. The cabinet may promulgate administrative regulations consistent with this chapter to further define other persons who may obtain copies of vital records***[~~any applicant~~]. Each copy issued shall show the date of registration and copies issued from records marked "delayed" or

"amended" shall be similarly marked and show the effective date. The documentary evidence used to establish a delayed certificate shall be shown on all copies issued. All forms and procedures used in the issuance of certified copies of vital records in the Commonwealth shall be provided or approved by the state registrar.

(2) ***A certified copy or other copy of a death certificate containing the cause of death information shall not be issued, except as follows:***

- ***(a) Upon specific request of the spouse, children, parents, or other next of kin of the decedent or their respective authorized representative;***
- ***(b) When a documented need for the cause of death to establish a legal right or claim has been demonstrated;***
- ***(c) When the request for the copy is made by or on behalf of an organization that provides benefits to the decedent's survivors or beneficiaries;***
- ***(d) Upon specific request by local, state, or federal agencies for research or administrative purposes approved by the cabinet;***
- ***(e) When needed for research activities approved by the cabinet; or***
- ***(f) Upon receipt of an order from a court of competent jurisdiction ordering the release.***

(3) A certified copy of a vital record or any part thereof, issued in accordance with subsection (1) of this section, shall be considered for all purposes the same as the original and shall be prima facie evidence of the facts stated therein. The evidentiary value of a certificate or record which has been amended shall be determined by the judicial or administrative body, or official before which the certificate is offered as evidence.

(4)[~~(3)~~] The federal agency responsible for national vital statistics may be furnished copies or data from the system of vital statistics for national statistics, if the federal agency shares in the cost of collecting, processing, and transmitting the data, and if the data is not used for other than statistical purposes by the federal agency unless so authorized by the cabinet.

(5)[~~(4)~~] Federal, state, local, and other public or private agencies may, upon request, be furnished copies or data from the system of vital statistics for statistical or administrative purposes upon terms or conditions as may be prescribed by ***an administrative*** regulation if the copies or data are not used for purposes other than those for which they were requested without prior permission of the cabinet. No information other than statistical data shall be provided for commercial purposes.

(6)[~~(5)~~] The cabinet may, by agreement, transmit copies of records and other reports required by this chapter to offices of vital statistics outside the Commonwealth when the records or other reports relate to residents of those jurisdictions or persons born in those jurisdictions. The agreement shall require that the copies be used for statistical and administrative purposes only and the agreement shall further provide for the retention and disposition of the copies. Copies received by the Office of Vital Statistics from offices of vital statistics in other states shall be handled in the same manner as prescribed in this section.

(7)[~~(6)~~] No person shall prepare or issue any certificate which purports to be an original, certified copy, or copy of a vital record except as authorized in this section or ***by an administrative regulation promulgated under this section***[~~regulation adopted hereunder~~].".

Floor Amendment No. 5 to **HB 452**, by Representative J. Turner:

On page 3, line 12 through page 5, line 16 delete Section 4 in its entirety and insert in lieu thereof the following:

"Section 1. KRS 24A.175 is amended to read as follows:

(1) Court costs for a criminal case in the District Court shall be :

- (a) For an offense for which prepayment is permitted and for which prepayment has been made prior to trial as required by law $49.00
- (b) For an offense for which prepayment is not permitted or has not been made $74.00
- (c) Court costs designated in paragraph (b) of this subsection shall include the fee mandated by KRS 346.185.

(2) There shall be no court costs for a parking citation when:

- (a) The fine is paid to the clerk before the trial date in the same manner as provided for speeding citations under KRS 189.394(3); and
- (b) The citation does not involve parking in a fire lane or blocking the traveled portion of the highway.

(3)[~~Additional costs shall be assessed in District Court criminal matters as follows:~~

- ~~(a) Preparing an attestation~~ .... ~~$0.50~~
- ~~(b) Preparing a certification~~ .... ~~$1.00~~

~~(c) Preparing a copy of a document (per page) .... $0.25~~

~~(4)~~] *The* taxation of *court* costs against a defendant, upon conviction *in a case*, including persons sentenced to state traffic school as provided under KRS 186.574, shall be mandatory and shall not be *subject to probation, suspension, proration, deduction, or other form of nonimposition in the terms of a plea bargain or otherwise, unless the court, upon motion of the defendant, finds that the defendant is a poor person as defined by KRS 453.190(2) and that he or she is unable to pay court costs and will be unable to pay the court costs in the foreseeable future. These findings shall not be made until a hearing has been held and the court determines that the defendant is able to meet the standards set forth in KRS 534.060(2) and will be unable to pay court costs at any time in the foreseeable future*[~~probated or suspended~~].

(4)[~~(5)~~] *If the court finds that the defendant does not meet the standard articulated in subsection (3) of this section and that the defendant is nonetheless unable to pay the full amount of the court costs, fees, and fines within seven (7) days of sentencing, then the court may establish an installment payment plan whereby the defendant pays the full amount of the court costs, fees, and fines to the circuit clerk in installments of no less than fifty dollars ($50). The court costs, fees, and fines under the installment plan shall be paid within one (1) year of the date of sentencing notwithstanding any remaining restitution or other monetary penalty owed by the defendant and arising out of the conviction. Installment payments will be applied first to court costs, then to fees, and then to fines*[~~The circuit clerk shall, at the time fines and costs are paid over to the state, pay five dollars ($5) from each court cost collected pursuant to subsection (1) of this section to the county treasurer for use by the fiscal court for the sole purpose of defraying the costs of operation of the county jail and the transportation of prisoners and shall include among his reports to the Administrative Office of the Courts the amounts paid to the county.~~

~~(6) The circuit clerk shall, at the time fines and costs are paid over to the state, pay ten dollars ($10) from each court cost collected pursuant to subsection (1) of this section to the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority pursuant to KRS 441.625 to 441.695.~~

~~(7) The circuit clerk shall monthly pay twelve dollars ($12) from each court cost collected pursuant to subsection (1) of this section to the sheriff for use by the sheriff for providing security services and related activities to the court as provided for in KRS 64.092. The clerk shall include among his reports to the Administrative Office of the Courts the amounts paid to the sheriff~~].".

Floor Amendment No. 6 to **HB 452**, by Representative J. Turner:

On page 3, line 12 through page 5, line 16 delete Section 4 in its entirety and insert in lieu thereof the following:

"Section 1. KRS 24A.175 is amended to read as follows:

(1) Court costs for a criminal case in the District Court shall be :

(a) For an offense for which prepayment is permitted and for which prepayment has been made prior to trial as required by law .... *$52.00*[~~$49.00~~]

(b) For an offense for which prepayment is not permitted or has not been made .... *$77.00*[~~$74.00~~]

(c) Court costs designated in paragraph (b) of this subsection shall include the fee mandated by KRS 346.185.

(2) There shall be no court costs for a parking citation when:

(a) The fine is paid to the clerk before the trial date in the same manner as provided for speeding citations under KRS 189.394(3); and

(b) The citation does not involve parking in a fire lane or blocking the traveled portion of the highway.

(3)[~~Additional costs shall be assessed in District Court criminal matters as follows:~~

~~(a) Preparing an attestation .... $0.50~~

~~(b) Preparing a certification .... $1.00~~

~~(c) Preparing a copy of a document (per page) .... $0.25~~

~~(4)~~] *The* taxation of *court* costs against a defendant, upon conviction *in a case*, including persons sentenced to state traffic school as provided under KRS 186.574, shall be mandatory and shall not be *subject to probation, suspension, proration, deduction, or other form of nonimposition in the terms of a plea bargain or otherwise, unless the court, upon motion of the defendant, finds that the defendant is a poor person as defined by KRS 453.190(2) and that he or she is unable to pay court costs and will be unable to pay the court costs in the foreseeable future. These findings shall not be made until a hearing has been held and the court determines that the defendant is able to meet the standards set forth in KRS 534.060(2) and will be unable to pay court costs at any time in the foreseeable future*[~~probated or suspended~~].

(4)[~~(5)~~] *If the court finds that the defendant does not meet the standard articulated in subsection (3) of this section and that the defendant is nonetheless unable to pay the full amount of the court costs, fees, and fines within seven (7) days of sentencing, then the court may establish an installment payment plan whereby the defendant pays the full amount of*

the court costs, fees, and fines to the circuit clerk in installments of no less than fifty dollars ($50). The court costs, fees, and fines under the installment plan shall be paid within one (1) year of the date of sentencing notwithstanding any remaining restitution or other monetary penalty owed by the defendant and arising out of the conviction. Installment payments will be applied first to court costs, then to fees, and then to fines~~[The circuit clerk shall, at the time fines and costs are paid over to the state, pay five dollars ($5) from each court cost collected pursuant to subsection (1) of this section to the county treasurer for use by the fiscal court for the sole purpose of defraying the costs of operation of the county jail and the transportation of prisoners and shall include among his reports to the Administrative Office of the Courts the amounts paid to the county.~~

~~(6) The circuit clerk shall, at the time fines and costs are paid over to the state, pay ten dollars ($10) from each court cost collected pursuant to subsection (1) of this section to the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority pursuant to KRS 441.625 to 441.695.~~

~~(7) The circuit clerk shall monthly pay twelve dollars ($12) from each court cost collected pursuant to subsection (1) of this section to the sheriff for use by the sheriff for providing security services and related activities to the court as provided for in KRS 64.092. The clerk shall include among his reports to the Administrative Office of the Courts the amounts paid to the sheriff]~~."; and

On page 65, after line 22 insert the following:

"SECTION 44. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) The revenues received from three dollars ($3) of the penalty imposed and collected pursuant to section 4 of this Act shall be credited to the juror compensation improvement fund which is hereby created.

(2) Funds deposited to the credit of the juror compensation improvement fund shall be used to finance statutory increases in juror pay.

(3) Funds unexpended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year or biennium."; and by renumbering subsequent sections to conform.

Floor Amendment No. 5 to the Committee Substitute to **HB 481**, by Representative Vincent:

On page 67, after line 16, by adding:

"Section 62. KRS 304.12-230 is amended to read as follows:

It is an unfair claims settlement practice for any person to commit or perform any of the following acts or omissions:

(1) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;

(2) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

(3) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

(4) Refusing to pay claims without conducting a reasonable investigation based upon all available information;

(5) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;

(6) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;

(7) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;

(8) Attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application;

(9) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of the insured;

(10) Making claims payments to insureds or beneficiaries not accompanied by statement setting forth the coverage under which the payments are being made;

(11) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;

(12) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;

(13) Failing to promptly settle claims, where liability has become reasonably clear, under one (1) portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage;

(14) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement; ~~[or]~~

(15) Failing to comply with the decision of an independent review entity to provide coverage for a covered person as a result of an external review in accordance with KRS 304.17A-621, 304.17A-623, and 304.17A-625*; or*

(16) Utilizing computer programs for determining the value of bodily injury claims if the program is not specific to Kentucky claims and is used without reliance on the specific nature and circumstances of the individual's claim."; and

On page 67, line 17, by deleting "62" and inserting in lieu thereof "63".

Floor Amendment No. 3 to the Committee Substitute to **HB 119**, by Representative Weaver:

On page 2, line 1, by deleting "*or*"

On page 2, before the period on line 3, by inserting "*; or*

(f) A person or business entity that monitors conversations as a tool for debt collection".

Floor Amendment No. 1 to the Committee Substitute to **HB 417**, by Representative Bratcher:

On Page 9, after Line 25 by inserting the following:

"SECTION 12. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

Any planning unit or joint planning unit of a city of the first class, county containing a city of the first class, or a consolidated local government may adopt regulations prohibiting the expansion of current manufactured or mobile home communities or the establishment of new manufactured or mobile home communities.".

Floor Amendment No. 2 to **HB 572**, by Representative Meeks:

On page 6, line 11, after "*which*" insert "*is to*"; and

On page 6, line 11, delete "*receives*" and insert "*receive*"; and

On page 6, line 12, after the second entry for "*board*" insert "*prior to the receipt of those grant funds which*"; and

On page 6, line 12, delete "*granting*" and insert "*grants*" in lieu thereof; and

On page 6, line 25, after "*operator*" insert "*prior to the receipt of grant funds which*"; and

On page 6, line 25, delete "*covering*" and insert "*covers*"; and

On page 9, between lines 3 and 4, insert "*(b) In the case of unmarked graves or burial sites, descendants or family members shall provide, if requested by the owner or occupant, reasonable proof of the existence of such graves or burial sites;*"; and

On page 9, line 4, delete "*(b)*" and insert "*(c)*"; and

On page 9, line 6, delete "*(c)*" and insert "*(d)*"; and

On page 9, line 8, delete "*(d)*" and insert "*(e)*"; and

On page 9, line 8, after "*be*" insert "*reasonable and*";

On page 9, line 8, delete "*by*" and insert "*in writing signed by the descendants or family members and*" in lieu thereof; and

On page 9, line 8, after "*landowner*" delete "*and both shall be reasonable*; and

On page 9, line 10, delete "*(e)*" and insert "*(f)*".

Floor Amendment No. 1 to the Committee Substitute to **HB 367**, by Representative Barrows:

On page 1, line 9, after "*program*" by inserting "*or to agriculture water quality plans written for agriculture operations in regions designated under KRS 224.71-120(5) by the Division of Water, working with the Agriculture Water Quality Authority, as water priority protection regions where it is documented that agriculture is contributing to water quality problems. The confidentiality given under this section shall not apply to action by the authority to monitor compliance with Subchapter 71 of KRS Chapter 224 or to determine the effectiveness of the best management practices in the state or regional agriculture water quality plans for the purpose of considering modifications to those plans*"

Floor Amendment No. 3 to **HB 572**, by Representative Lindsay:

On page 11, line 10 through page 12, line 4 delete Sections 13 and 14 in their entirety; and by renumbering subsequent sections accordingly.

Floor Amendment No. 2 to **SB 4**, by Representative Heleringer:

On page 3, line 6, after "violating" by bracketing and striking through "KRS 258.500" and inserting in lieu thereof "*subsections (2), (3), (4), (5), (6), or (12) of Section 2 of this Act*"; and

On page 3, line 9, after ".", by inserting "*No person shall be charged with a violation of subsections (2), (3), (4), (5), (6), or (12) of Section 2 of this Act if the requirements of subsection (8) of Section 2 of this Act are not met.*".

Floor Amendment No. 20 to the Committee Substitute to **HB 369**, by Representative Marzian:

On page 8, by deleting lines 6 through 11 in their entirety, and inserting in lieu thereof:

"*(b) Any retail pharmacy participating with a health benefit plan or an insurer that agrees to meet the mail order price, dispensing fee, and copay requirements of the mail order program of that health benefit plan or insurer shall not be required to dispense by mail.*"; and

On page 8, by deleting lines 14 through 24 in their entirety.

Floor Amendment No. 1 to **HB 617**, by Representative Damron:

On page 31, line 21, after "*chapter*" by inserting "*by subsection (11) of Section 4 of this Act*";

On page 34, by deleting all text from line 7 through page 55, line 3, and inserting in lieu thereof the following:

"*As used in Sections 23 to 34 of this Act:*

(1) "Board" means the Kentucky Board of Medical Licensure;

(2) "Physician assistant" means a person who:

(a) Has graduated from a physician assistant or surgeon assistant program accredited by the Accreditation Review Commission on Education for Physician Assistants or its predecessor or successor agencies and has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or its predecessor or successor agencies; or

(b) Possesses a current physician assistant certificate issued by the board prior to the effective date of this Act;

(3) "Supervising physician" means a physician licensed by the board who supervises one (1) or more physician assistants;

(4) "Supervising physician in anesthesia" means a physician licensed by the board who has completed postgraduate training in anesthesiology at an anesthesiology program accredited by the Accreditation Council for Graduate Medical Education or its equivalent; and

(5) "Supervision" means overseeing the activities of and accepting of responsibility for the medical services rendered by a physician assistant. Each team of physicians and physician assistants shall ensure that the delegation of medical tasks is appropriate to the physician assistant's level of training and experience, that the identifications of and access to the supervising physician are clearly defined, and that a process for evaluation of the physician assistant's performance is established.

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A relating to the certification and regulation, including temporary certification, of physician assistants.

(2) The board shall establish a nine (9) member Physician Assistant Advisory Committee that shall review and make recommendations to the board regarding all matters relating to physician assistants that come before the board, including but not limited to:

(a) Applications for physician assistant certification;

(b) Certification renewal requirements;

(c) Approval of supervising physicians;

(d) Disciplinary actions; and

(e) Promulgation and revision of administrative regulations.

(3) Members of the Physician Assistant Advisory Committee shall be appointed by the board for four (4) year terms and shall consist of:

(a) Five (5) practicing physician assistants;

(b) Two (2) supervising physicians;

(c) One (1) member of the board; and

(d) One (1) citizen at large.

(4) The chairperson of the committee shall be elected by a majority vote of the committee members and shall be responsible for presiding over meetings that shall be held on a regular basis.

(5) Members shall receive reimbursement for expenditures relating to attendance at committee meetings consistent with state policies for reimbursement of travel expenses for state employees.

(6) Nothing in this chapter shall be construed to require certification of a physician assistant student enrolled in a physician assistant or surgeon assistant program accredited by the Accreditation Review Commission on Education for Physician Assistants or its successor agencies or of a physician assistant employed in the service of the federal government while performing duties relating to that employment.

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) To be certified by the board as a physician assistant, an applicant shall:

(a) Submit a completed application form with the required fee;

(b) Be of good character and reputation;

(c) Be a graduate of an approved program; and

(d) Have passed an examination approved by the board within three (3) attempts.

(2) A physician assistant who is authorized to practice in another state and who is in good standing may apply for certification by endorsement from the state of his or her credentialing if that state has standards substantially equivalent to those of this Commonwealth.

(3) A physician assistant's certification shall be renewed upon fulfillment of the following requirements:

(a) The holder shall be of good character and reputation;

(b) The holder shall provide evidence of completion during the previous two (2) years of a minimum of one hundred (100) hours of continuing education approved by the American Medical Association, the American Osteopathic Association, the American Academy of Family Physicians, the American Academy of Physician Assistants, or by another entity approved by the board;

(c) The holder shall provide evidence of completion of a continuing education course on the human immunodeficiency virus and acquired immunodeficiency syndrome in the previous ten (10) years that meets the requirements of KRS 214.610; and

(d) The holder shall provide proof of current certification with the National Commission on Certification of Physician Assistants.

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The examination of the National Commission on Certification of Physician Assistants for certification as a physician assistant shall be approved by the board.

(2) Educational and training programs approved by the board shall include physician assistant programs that are accredited by the Accreditation Review Commission on Education for Physician Assistants or its predecessor or successor agencies.

(3) Training programs for the provision of general or regional anesthesia shall be accredited by the Commission on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs.

(4) A trainee enrolled in an approved program shall be supervised and the training program shall be responsible for the services provided by the trainee. A trainee shall have the same scope of practice as a physician assistant and shall not be considered to be practicing without authorization while enrolled in a training program.

SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "medical emergency" means a real and substantial threat to public health or the health of an individual as determined by the executive director of the board that requires additional professional resources.

(2) In a medical emergency, the board may approve an additional physician assistant for a supervising physician practicing in this Commonwealth for a period not to exceed thirty (30) days who:

(a) Submits satisfactorily completed forms to the board; and

(b) Is credentialed and in good standing in this Commonwealth.

(3) In a medical emergency, the board may issue an emergency permit to a physician assistant who:

(a) Is credentialed and in good standing in another state or Canadian province;

(b) Submits satisfactorily completed forms to the board; and

(c) Based on verifiable information, meets the requirements for regular certification under Section 25 of this Act.

(4) An emergency permit:

(a) Shall be valid for a period of time not to exceed thirty (30) days;

(b) Shall not be renewed or reissued and shall be immediately canceled if a medical emergency no longer exists;

(c) May be canceled by the executive director upon reasonable cause without a prior hearing; and

(d) Shall not authorize a physician assistant to practice beyond a specified geographical area, beyond the scope of practice encompassed by the medical emergency, or without the supervision of a supervising physician.

SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

The board may revoke, suspend, deny, decline to renew, limit, or restrict the certification of a physician assistant, or may reprimand or place a physician assistant on probation for no more than five (5) years if the board determines, after giving notice and providing an opportunity for a hearing pursuant to KRS Chapter 13B, that a physician assistant has:

(1) Knowingly made or presented or caused to be made or presented any false, fraudulent, or forged statement, writing, certificate, diploma, or other document relating to an application for certification;

(2) Practiced, aided, or abetted in the practice of fraud, forgery, deception, collusion, or conspiracy relating to an examination for certification;

(3) Been convicted by any court of a misdemeanor offense involving moral turpitude or been convicted of an act that is or would be a felony under the laws of the Commonwealth of Kentucky or of the United States;

(4) Become addicted to or is an abuser of alcohol, drugs, or any illegal substance;

(5) Developed a physical or mental disability or other condition that presents a danger in continuing to practice medicine to patients, the public, or other health care personnel;

(6) Knowingly made or caused to be made or aided or abetted in the making of a false statement in any document executed in connection with the practice of medicine or osteopathy;

(7) Performed any act or service as a physician assistant without a designated supervising physician;

(8) Exceeded the scope of medical services described by the supervising physician in the applications required under Section 30 of this Act;

(9) Exceeded the scope of practice for which the physician assistant was credentialed by the governing board of a hospital or licensed health care facility under Sections 31 and 32 of this Act;

(10) Aided, assisted, or abetted the unlawful practice of medicine or osteopathy or any healing art including the unlawful practice of physician assistants;

(11) Willfully violated a confidential communication;

(12) Performed the services of a physician assistant in an unprofessional, incompetent, or grossly or chronically negligent manner;

(13) Been removed, suspended, expelled, or placed on probation by any health care facility or professional society for unprofessional conduct, incompetence, negligence, or violation of any provision of this section or Section 32 or 34 of this Act;

(14) Violated any applicable provision of administrative regulations relating to physician assistant practice;

(15) Violated any term of probation or other discipline imposed by the board; or

(16) Failed to complete the required number of hours of approved continuing education.

SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) At any time when an inquiry panel has probable cause to believe that a physician assistant has violated the terms of an agreed order or violated the terms of a disciplinary order, or that a physician assistant's practice constitutes a danger to the health, welfare, or safety of his or her patients or the general public, the inquiry panel may issue an emergency order in accordance with KRS 13B.125 suspending, limiting, or restricting the physician assistant's certification.

(2) For the purposes of a hearing conducted under KRS 13B.125 on an emergency order issued under this section, the findings of fact in the emergency order shall constitute a rebuttable presumption of substantial evidence of a violation of law that constitutes immediate danger to the health, welfare, or safety of patients or the general public. For the purposes of this hearing only, hearsay shall be admissible and may serve as a basis of the board's findings.

(3) An emergency order as described in subsection (1) of this section shall not be issued unless grounds exist for the issuance of a complaint. The inquiry panel shall issue a complaint prior to the date of the emergency hearing or the emergency order shall become void.

(4) An order of temporary suspension, restriction, or limitation shall not be maintained after a final order is served on the charged physician assistant pursuant to the proceeding on the complaint. An appeal of an emergency order shall not prejudice the board from proceeding with the complaint.

SECTION 30. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A physician shall not supervise a physician assistant without approval of the board. Failure to obtain board approval as a supervising physician or failure to comply with the requirements of Sections 23 to 34 of this Act or related administrative regulations shall be considered unprofessional conduct and shall be subject to disciplinary action by the board that may include revocation, suspension, restriction, or placing on probation the supervising physician's right to supervise a physician assistant.

(2) To be approved by the board as a supervising physician, a physician shall:

  (a) Be currently licensed and in good standing with the board;

  (b) Maintain a practice primarily within this Commonwealth. The board in its discretion may modify or waive this

requirement;

(c) Submit a completed application and the required fee to the board. The application shall include but is not limited to:

1. A description of the nature of the physician's practice;

2. A statement of assurance by the supervising physician that the scope of medical services and procedures described in the application or in any supplemental information shall not exceed the normal scope of practice of the supervising physician;

3. A description of the means by which the physician shall maintain communication with the physician assistant when they are not in the same physical location;

4. The name, address, and area of practice of one (1) or more physicians who agree in writing to accept responsibility for supervising the physician assistant in the absence of the supervising physician; and

5. A description of the scope of medical services and procedures to be performed by the physician assistant for which the physician assistant has been trained in an approved program; and

(d) Prior to performing any service or procedure beyond those described in the initial application submitted to the board under subsection (2)(c) of this section, supplement that application with information that includes but is not limited to:

1. A description of the additional service or procedure;

2. A description of the physician assistant's education, training, experience, and institutional credentialing;

3. A description of the level of supervision to be provided for the additional service or procedure; and

4. The location or locations where the additional service or procedure will be provided.

(3) A physician who has been supervising a physician assistant prior to the effective date of this Act may continue supervision and a physician assistant may continue to perform medical services and procedures. The supervising physician shall submit the application as required in this section by October 15, 2002.

(4) A physician may enter into supervision agreements with a maximum of four (4) physician assistants but shall not supervise more than two (2) physician assistants at any one (1) time. Application for board approval to be a supervising physician shall be obtained individually for each physician assistant.

(5) The board may impose restrictions on the scope of practice of a physician assistant or on the methods of supervision by the supervising physician upon consideration of recommendations of the Physician Assistant Advisory Committee established in Section 24 of this Act after providing the applicant with reasonable notice of its intended action and after providing a reasonable opportunity to be heard.

SECTION 31. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

A supervising physician shall:

(1) Restrict the services of a physician assistant to services within the physician assistant's scope of practice and to the provisions of Sections 32 to 34 of this Act;

(2) Prohibit a physician assistant from prescribing or dispensing controlled substances;

(3) Inform all patients in contact with a physician assistant of the status of the physician assistant;

(4) Post a notice stating that a physician assistant practices medicine or osteopathy in all locations where the physician assistant may practice;

(5) Require a physician assistant to wear identification that clearly states that he or she is a physician assistant;

(6) Prohibit a physician assistant from independently billing any patient or other payor for services rendered by the physician assistant;

(7) If necessary, participate with the governing body of any hospital or other licensed health care facility in a credentialing process established by the facility;

(8) Not require a physician assistant to perform services or other acts that the physician assistant feels incapable of carrying out safely and properly;

(9) Maintain adequate, active, and continuous supervision of a physician assistant's activities to assure that the physician assistant is performing as directed and complying with the requirements of Sections 23 to 34 of this Act and all related administrative regulations;

(10) Sign all records of service rendered by a physician assistant in a timely manner as certification that the physician assistant performed the services as delegated;

(11) (a) Reevaluate the reliability, accountability, and professional knowledge of a physician assistant two (2) years after the physician assistant's original certification in this Commonwealth and every two (2) years thereafter; and

(b) Based on the reevaluation, recommend approval or disapproval of certification or recertification to the board;

and

(12) Notify the board within three (3) business days if the supervising physician:

(a) Ceases to supervise or employ the physician assistant; or

(b) Believes in good faith that a physician assistant violated any disciplinary rule of Sections 23 to 34 of this Act or related administrative regulations.

SECTION 32. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A physician assistant may perform medical services and procedures within the scope of medical services and procedures described in the initial or supplemental application received by the board under Section 30 of this Act.

(2) A physician assistant shall be considered an agent of the supervising physician in performing medical services and procedures described in the initial or supplemental application received by the board under Section 30 of this Act.

(3) A physician assistant may initiate evaluation and treatment in emergency situations without specific approval.

(4) A physician assistant may prescribe and administer all nonscheduled legend drugs and medical devices as delegated by the supervising physician. A physician assistant who is delegated prescribing authority may request, receive, and distribute professional sample drugs to patients.

(5) A physician assistant shall not submit direct billing for medical services and procedures performed by the physician assistant.

(6) A physician assistant may perform local infiltrative anesthesia under the provisions of subsection (1) of this section, but a physician assistant shall not administer or monitor general or regional anesthesia unless the requirements of Section 34 of this Act are met.

(7) A physician assistant may perform services in the offices or clinics of the supervising physician. A physician may also render services in hospitals or other licensed health care facilities only with written permission of the facility's governing body, and the facility may restrict the physician assistant's scope of practice within the facility as deemed appropriate by the facility.

(8) A physician assistant shall not practice medicine or osteopathy independently. Each physician assistant shall practice under supervision as defined in Section 23 of this Act.

SECTION 33. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A supervising physician who uses the services of a physician assistant in an office or clinic separate from the physician's primary office shall submit for board approval a specific written request that describes the services to be provided by the physician assistant in the separate office or clinic, the distance between the primary office and the separate location, and the means and availability of direct communication at all times with the supervising physician.

(2) A physician assistant shall not practice medicine or osteopathy in an office, clinic, or separate location from the supervising physician unless the physician assistant has two (2) continuous years of experience in a non-separate location. The board in its discretion may modify or waive the requirements of this subsection.

(3) Except as provided by Section 34 of this Act, a physician assistant may perform services when the supervising physician is not physically present in the supervising physician's office or clinic when a reliable means of direct communication with the supervising physician is available at all times.

(4) Except as provided by Section 34 of this Act, a physician assistant may perform services when the supervising physician is not physically present in a hospital or other licensed health care facility when a reliable means of direct communication with the supervising physician is available at all times and the hospital or facility has given specific approval for the provision of physician assistant services without the physical presence of the supervising physician.

SECTION 34. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A physician assistant who was practicing as an anesthesiology assistant in Kentucky prior to the effective date of this Act, may continue to practice if the physician assistant:

(a) Met the practice, education, training, and certification requirements specified in Sections 25 and 26 of this Act;

(b) Is a graduate of an approved program accredited by the Commission on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs that is specifically designed to train an individual to administer general or regional anesthesia; and

(c) Is employed by a supervising physician in anesthesia.

(2) A physician assistant who has not practiced as an anesthesiology assistant in Kentucky prior to the effective date of this Act, shall meet the following requirements prior to practicing as an anesthesiology assistant:

(a) Graduation from an approved four (4) year physician assistant program as specified in subsection (1)(b) of this section and graduation from another two (2) year approved and accredited program that consists of academic and clinical training in anesthesiology;

(b) Compliance with the practice, education, training, and certification requirements specified in Sections 25 and 26 of this Act; and

(c) Employment with a supervising physician in anesthesia.

(3) A physician assistant practicing as an anesthesiology assistant shall not administer or monitor general or regional anesthesia unless the supervising physician in anesthesia:

(a) Is physically present in the room during induction and emergence;

(b) Is not concurrently performing any other anesthesiology procedure; and

(c) Is available to provide immediate physical presence in the room.

Section 35. KRS 217.015 is amended to read as follows:

For the purposes of KRS 217.005 to 217.215:

(1) "Advertisement" means all representations, disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;

(2) "Bread" and "enriched bread" mean only the foods commonly known and described as white bread, white rolls, white buns, enriched white bread, enriched rolls, and enriched white buns, as defined under the federal act;

(3) "Cabinet" means the Cabinet for Health Services or its designee;

(4) "Color" means but is not limited to black, white, and intermediate grays;

(5) "Color additive" means a material that:

(a) Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source. Nothing in this paragraph shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest; or

(b) When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with another substance, of imparting color. "Color additive" does not include any material that has been or may in the future be exempted under the federal act;

(6) "Contaminated with filth" means any food, drug, device, or cosmetic that is not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminants;

(7) "Cosmetic" means:

(a) Articles intended to be rubbed, poured, sprinkled, sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and

(b) Articles intended for use as a component of those articles, except that the term shall not include soap;

(8) "Device," except when used in subsection (48) of this section, KRS 217.035(6), KRS 217.065(3), KRS 217.095(3), and KRS 217.175(10), means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended:

(a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

(b) To affect the structure or any function of the body of man or other animals;

(9) "Dispense" means to deliver a drug or device to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;

(10) "Dispenser" means a person who lawfully dispenses a drug or device to or for the use of an ultimate user;

(11) "Drug" means:

(a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;

(12) "Enriched," as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of enriched flour as defined under the federal act;

(13) "Environmental Pesticide Control Act of 1972" means the Federal Environmental Pesticide Control Act of 1972, Pub. L. 92-516, and all amendments thereto;

(14) "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and cosmetics, 15 U.S.C. secs. 1451 et seq., and all amendments thereto;

(15) "Federal act" means the Federal Food, Drug and Cosmetic Act, 21 U.S.C. secs. 301 et seq., 52 Stat. 1040 et seq., or amendments thereto;

(16) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of substances used for flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed. This definition does not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if the compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending, or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;

(17) "Flour" means only the foods commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;

(18) "Food" means:

(a) Articles used for food or drink for man or other animals;

(b) Chewing gum; and

(c) Articles used for components of any such article;

(19) "Food additive" means any substance the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any of these uses, if the substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that the term does not include:

(a) A pesticide chemical in or on a raw agricultural commodity;

(b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity;

(c) A color additive; or

(d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq.; or the Meat Inspection Act of 1907; and amendments thereto;

(20) "Food processing establishment" means any commercial establishment in which food is manufactured, processed, or packaged for human consumption, but does not include retail food establishments;

(21) "Food service establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including, but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; charitable food kitchens; or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It does not include food vending machines, establishments serving beverages only in single service or original containers, or retail food stores which only cut, slice, and prepare cold-cut sandwiches for individual consumption;

(22) "Food storage warehouse" means any establishment in which food is stored for subsequent distribution;

(23) "Immediate container" does not include package liners;

(24) "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent illness or injury based on:

(a) The number of potential illnesses or injuries; or

(b) The nature, severity, and duration of the anticipated illness or injury;

(25) "Interference" means threatening or otherwise preventing the performance of lawful inspections or duties by agents of the

cabinet during all reasonable times of operation;

(26) "Label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of the article, or is easily legible through the outside container or wrapper;

(27) "Labeling" means all labels and other written, printed, or graphic matter:

(a) Upon an article or any of its containers or wrappers; or

(b) Accompanying the article;

(28) "Legend drug" means a drug defined by the Federal Food, Drug and Cosmetic Act, as amended, and under which definition its label is required to bear the statement "Caution: Federal law prohibits dispensing without prescription.";

(29) "Meat Inspection Act" means the Federal Meat Inspection Act, 21 U.S.C. secs. 71 et seq., 34 Stat. 1260 et seq., including any amendments thereto;

(30) "New drug" means:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under prescribed conditions, has become so recognized, but which has not, otherwise than in the investigations, been used to a material extent or for a material time under the conditions;

(31) "Official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them;

(32) "Person" means an individual, firm, partnership, company, corporation, trustee, association, or any public or private entity;

(33) "Pesticide chemical" means any substance that alone in chemical combination, or in formulation with one or more other substances, is an "economic poison" within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act and amendments thereto, and that is used in the production, storage, or transportation of raw agricultural commodities;

(34) "Poultry Products Inspection Act" means the Federal Poultry and Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq., Pub. L. 85-172, 71 Stat. 441, and any amendments thereto;

(35) "Practitioner" means medical or osteopathic physicians, dentists, chiropodists, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices. "Practitioner" includes optometrists when administering or prescribing pharmaceutical agents authorized in KRS 320.240(12) to (14), advanced registered nurse practitioners as authorized in KRS 314.011 and 314.042, and physician assistants when administering or prescribing pharmaceutical agents as authorized in ***Section 32 of this Act***[~~KRS 311.560(3) and (4)~~];

(36) "Prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, that is signed, given, or authorized by a medical, dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(37) "Prescription blank" means a document that conforms with KRS 217.216 and is intended for prescribing a drug to an ultimate user;

(38) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;

(39) "Retail food establishment" means any food service establishment, retail food store, or a combination of both within the same establishment;

(40) "Retail food store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but does not include establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, or food processing establishments;

(41) "Salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise trafficking in any salvaged merchandise;

(42) "Salvage processing plant" means an establishment operated by a person engaged in the business of reconditioning, labeling, relabeling, repackaging, recoopering, sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifices, cosmetics, single-service food containers or utensils, containers and packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a similar nature

that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means;

(43) "Second or subsequent offense" has the same meaning as it does in KRS 218A.010;

(44) "Secretary" means the secretary of the Cabinet for Health Services;

(45) "Temporary food service establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days;

(46) "Traffic" has the same meaning as it does in KRS 218A.010;

(47) "Ultimate user" has the same meaning as it does in KRS 218A.010;

(48) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts that are material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under the conditions of use as are customary or usual;

(49) The representation of a drug in its labeling or advertisement as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body; and

(50) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of those articles for sale, the sale, dispensing, and giving of those articles, and the supplying or applying of those articles in the conduct of any food, drug, or cosmetic establishment.

Section 36. The following KRS sections are repealed:

311.567 Authority for administrative regulations -- Physician Assistant Advisory Committee.

311.618 Committee's immunity for official acts.".

Floor Amendment No. 1 to **HB 576**, by Representative Thomas:

On page 1, line 22, after "***by***", by inserting "***, or an entity that has contracted with,***"; and

On page 7, line 21, after "by", by inserting "***, or an entity that has contracted with,***"; and

On page 10, line 26, after "Employs", by inserting "***or contracts with***"; and

On page 15, line 21, after "employ", by inserting "***or contract with***"; and

On page 16, line 25, after "employ", by inserting "***or contract with***"; and

On page 23, line 8, after "***ordinance***", by deleting the remaining new language through line 9; and

On page 27, line 10, after "***violating***", by deleting "***KRS 258.500***" and by inserting "***subsections (2), (3), (4), (5), (6), or (12) of Section 27 of this Act***"; and

On page 27, line 13, after "***both***", by inserting "***. No person shall be charged with a violation of subsections (2), (3), (4), (5), (6), or (12) of Section 27 of this Act if the requirements of subsection (8) of Section 27 of this Act are not met***" and

On page 34, line 1, after "***employed***", by inserting "***or contracted with***".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 354, Representatives Comer, Cornett, and Simpson

HB 361, Representative Nelson

HB 374, Representative Nelson

HB 409, Representative Nelson

HB 410, Representative Nelson

HB 443, Representative Nelson

HB 534, Representative Hoffman

HB 537, Representative Nelson

HB 600, Representative J. Adams

HB 637, Representative Nelson

HB 677, Representative Burch

HB 678, Representative Siler

HB 688, Representative Westrom

HCR 31, Representative Colter.

Announcements

The following meetings were announced:

Labor and Industry: meeting canceled

Judiciary: Wednesday February 20, 2002, noon

Budget Subcommittee on Transportation: Wednesday, February 20, 2002, 10:00 a.m.

Budget Subcommittee on Economic Development: Wednesday, February 20, 2002, 10:00 a.m., Room 113

Licensing and Occupations: Wednesday, February 20, 2002, Canceled

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., on Wednesday, February 20, 2002.

The motion that the House adjourn until 2:00 p.m., Wednesday, February 20, 2002, was adopted by voice vote.

WEDNESDAY, FEBRUARY 20, 2002

THIRTIETH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jana Hall, First Presbyterian Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present Representatives Graham and Stewart.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Tuesday, February 19, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announced passage of **SB 7, SB 132, SB 164, SB 168, SJR 16, SJR 23, SJR 24, SJR 39, SJR 42,** and **HB 340.**

Message received in regard to **HB 31**: The Senate has passed **HB 31** with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 309**: The Senate has passed **HB 309** by way of Committee Substitute and respectfully requests concurrence of this Honorable Body. (Time 2:10 p.m.)

Motions, Petitions, and Communications

Representative Nelson moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Nelson moved the adoption of the following **Legislative Citation No. 53**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the participants and committee members of Leadership Bell County upon visiting the chambers of the Kentucky House of Representatives to view a day of the Regular Session of the 2002 General Assembly. An outstanding educational program that develops high caliber citizens who are well-informed about the quality of life and the infrastructure of their communities, Leadership Bell County is a vital link in promoting the overall success of the communities within this fine Commonwealth. The entire membership of this most honorable body is pleased to join with Representative Rick Nelson in welcoming the participants and committee members of this most noteworthy program and in extending best wishes for their continued success and good fortune. Done in Frankfort, Kentucky, this twentieth day of February, in the year two thousand and two.

Legislative Citation No. 53 was adopted without objection.

Introduction of Bills and Resolutions

HB 708, by Representatives Thomas and Bruce: AN ACT relating to MTBE and ethanol.

HB 709, by Representative L. Belcher: AN ACT relating to fertilizer and pesticide use and application.

HB 710, by Representative Treesh: AN ACT relating to revenue and taxation.

HB 711, by Representative Treesh: AN ACT relating to revenue and taxation.

HB 712, by Representative Treesh: AN ACT relating to revenue and taxation.

HB 713, by Representative Treesh: AN ACT relating to revenue and taxation.

HB 714, by Representative Bowling: AN ACT relating to the Kentucky River Authority.

HR 152, by Representatives J. Turner, Colter, Vincent, Baugh, Brinkman, Smith, Meeks, Geveden, Branham, Nelson, DeWeese, C. Belcher, Allen, Bratcher, Tapp, Callahan, De. Butler, Collins, Pasley, R. Adams, Bowling, Napier, Weaver, Cornett, S. Lee, Ford, Crimm, Feeley, Nunn, Comer, Rader, Heleringer, Haydon, Wayne, Kerr, Webb, T. Turner, Treesh, Stacy, Crall, Reinhardt, Riner, Wilkey, Thomas, Coleman, Cherry, J. Arnold, Stewart, Ballard, Rasche, Fischer, Nesler, Adkins, Buckingham, Stumbo, Bather, Simpson, Scott, A. Arnold, Draud, Pullin, Hall, Hoover, Crenshaw, Miller, Horlander, Moberly, Richards, Upchurch, Palumbo, Gooch, Damron, Marcotte, Jenkins, J. Lee, Dw. Butler, Sims, Mobley, Bruce, Childers, McKee, Denham, Stein, Lindsay, Barrows, Westrom, Graham, L. Clark, Walton, Siler, Hoffman, Marizan, P. Clark, L. Belcher, Thompson, Gray, Riggs, Yonts, J. Adams, Burch: A RESOLUTION adjourning the house of Representatives in loving memory and honor of Cawood Ledford, A Kentucky legend.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 707**

Banking and Insurance: **HB 690, 698**

Economic Development: **HCR 147**

Education: **HB 687, 704, 706**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 697, 703**

Health and Welfare: **HB 693, 700, 701, HJR 148, HCR 149, 151**

Judiciary: **HB 688, 689, 691, 692, 699**

Labor and Industry: **HB 695**

Local Government: **HB 694, 696, 702**

Natural Resources and Environment: **HB 705**

Floor Resolutions: **HR 150**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Licensing and Occupations: **HB 668, HB 676**

Tourism Development and Energy: **HCR 125**

Report of Committees

The Committee on Education reported **HB 593** with Committee Substitute attached thereto, **HB 653** with Committee Substitute attached thereto, **HCR 56** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 593, AN ACT relating to high school athletics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.070 is amended to read as follows:

(1) The Kentucky Board of Education shall have the management and control of the common schools and all programs operated in these schools, including interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for the Blind, and community education programs and services.

(2) The Kentucky Board of Education may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations, and bylaws of any organization or agency so designated shall be approved by the board, and provided further that any administrative hearing conducted by the designated managing organization or agency shall be conducted in accordance with KRS Chapter 13B.

(a) The state board or its designated agency shall assure through promulgation of administrative regulations that if a secondary school sponsors or intends to sponsor an athletic activity or sport that is similar to a sport for which National Collegiate Athletic Association members offer an athletic scholarship, the school shall sponsor the athletic activity or sport for which a scholarship is offered. The administrative regulations shall specify which athletic activities are similar to sports for which National Collegiate Athletic Association members offer scholarships.

(b) The state board or any agency designated by the state board to manage interscholastic athletics shall not promulgate rules, administrative regulations, or bylaws which prohibit pupils in grades seven (7) to eight (8) from participating in any high school sports except for high school varsity soccer and football, or from participating on more than one (1) school-sponsored team at the same time in the same sport. The Kentucky Board of Education, or an agency designated by the board to manage interscholastic athletics, may promulgate administrative regulations restricting, limiting, or prohibiting participation in high school varsity soccer and football for students who have not successfully completed the eighth grade.

(c) Any student who turns nineteen (19) years of age prior to August 1 shall not be eligible for high school athletics in Kentucky. Any student who turns nineteen (19) years of age on or after August 1 shall remain eligible for that school year only.

(d) If the state board or any agency designated by the state board to manage interscholastic athletics promulgates administrative regulations that permit a school district to employ or assign nonteaching personnel to serve in a coaching position, those administrative regulations shall apply to all sports and sports activities, including basketball and football. The administrative regulations shall give preference to the hiring or assignment of certified personnel over nonteaching personnel in coaching positions.

(e) The agency designated to manage interscholastic athletics shall not schedule the semifinals and the finals of any state high school basketball tournament on the same day.

(3) (a) The Kentucky Board of Education is hereby authorized to lease from the State Property and Buildings Commission, or others, whether public or private, any lands, buildings, structures, installations, and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. The lease may be for any initial term commencing with the date of the lease and ending with the next ensuing June 30, which is the close of the then-current fiscal biennium of the Commonwealth, with exclusive options in favor of the board to renew the same for successive ensuing bienniums, July 1 in each even year to June 30 in the next ensuing even year; and the rentals may be fixed at the sums in each biennium, if renewed, sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on, and provide reserves for, any revenue bonds which the State Property and Buildings Commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring the television and related facilities, with appurtenances, and costs as may be incident to the issuance of the bonds.

(b) Each option of the Kentucky Board of Education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the chief state school officer, and delivered to the secretary of the Finance and Administration Cabinet as a member of the commission. The option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the Finance and Administration Cabinet before the close of business on the last working day in April immediately preceding the beginning of the succeeding biennium.

(c) The Kentucky Board of Education shall not itself operate leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the chief state school officer and the Department of Education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to the reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any lease and to the cost of providing for the operation of the television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises, and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

(4) The state board may, on the recommendation and with the advice of the chief state school officer, prescribe, print, publish, and distribute at public expense such administrative regulations, courses of study, curriculums, bulletins, programs,

outlines, reports, and placards as each deems necessary for the efficient management, control, and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by the board shall be inclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.

(5) Upon the recommendation of the chief state school officer or his designee, the state board shall establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets, and all other matters which are the administrative responsibility of the Department of Education.

The Committee Substitute to **HB 593** is as follows:

HB 593, AN ACT relating to high school athletics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The agency designated by the Kentucky Board of Education to manage interscholastic athletics shall appoint a committee by September 1, 2002, to study the current format and scheduling of the state girls and boys high school basketball tournaments and consider the pros and cons of the scheduling, taking into consideration the physical and mental demands on the players, the impact on the school instructional calendar, the availability of facilities, and other related factors as determined by the committee.

(2) The committee shall consist of:

- *(a) Two (2) coaches, who may be active or former coaches;*
- *(b) Two (2) current superintendents of school districts that have high school athletic programs;*
- *(c) Two (2) current high school principals;*
- *(d) One (1) former female player, who participated in at least one (1) state tournament;*
- *(e) One (1) former male player, who participated in at least one (1) state tournament;*
- *(f) Two (2) athletic directors, active or former;*
- *(g) Two (2) former members of the board of control of the high school athletic association designated by the state board to govern interscholastic athletics;*
- *(h) Two (2) active referees;*
- *(i) Two (2) citizen members; and*
- *(j) Two (2) members of the General Assembly, one (1) appointed by the Senate President and one (1) appointed by the Speaker of the House.*

(3) The committee shall meet as needed during the 2002-2003 school year and make recommendations to the board of control of the athletics association prior to the scheduling of the high school tournaments for the 2003-2004 school year. The report shall also be presented to the Interim Joint Committee on Education.

HB 653, AN ACT relating to education networks that promote access to postsecondary education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby recognizes the compelling need to improve Kentucky's high school graduation rates, college access, college-going rates, and education attainment of its citizens throughout the Commonwealth. Education networks composed of representatives from postsecondary education institutions, secondary education institutions, and other education entities can provide an important coordinating and research role to meet these needs.

(2) The Kentucky Access to Higher Education Network is hereby recognized as a pilot project, attached to Morehead State University, for the overall purpose of coordinating activities and programs to improve high school graduation rates, access to postsecondary education, college-going rates, and education attainment of citizens in the Kentucky Appalachian region, which includes all counties designated by the Appalachian Regional Commission. In carrying out this purpose, the network shall:

- *(a) Promote and coordinate a network of education providers that include, but are not limited to representatives from the universities, community and technical colleges, local school districts, P-16 local councils, and other education entities;*
- *(b) Conduct research and deliver outreach programs to help revitalize the region's efforts through innovative education approaches;*
- *(c) Award mini-grants to local school districts through a competitive grant process to support a range of innovative retention and attainment programs, if funds are available;*
- *(d) Leverage resources with other agencies and projects that are designed to promote enhanced education*

attainment of citizens in the region;

(e) Disseminate information about best practices for improving retention and increasing college-going rates;

(f) Market information regarding the value of education attainment to the economic growth and vitality of the region; and

(g) Carry out other functions to address the areas for improvement described in this section.

Morehead State University as fiscal agent for the network may receive funds from federal, state, and local sources and may accept private grants or donations to further the overall purpose of the network.

(3) The Kentucky Access to Higher Education Network shall make a biennial report of its activities to the Interim Joint Committee on Education by October 1, 2003 and make recommendations as to the need and feasibility of establishing similar networks across the state. The network shall provide a copy of its report and recommendations to the Council on Postsecondary Education.

The Committee Substitute to **HB 653** is as follows:

HB 653, AN ACT relating to education networks that promote access to postsecondary education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby recognizes the compelling need to improve Kentucky's high school graduation rates, college access, college-going rates, and education attainment of its citizens throughout the Commonwealth. Education networks composed of representatives from postsecondary education institutions, secondary education institutions, and other education entities can provide an important coordinating and research role to meet these needs.

(2) The Kentucky Access to Higher Education Network is hereby recognized as a pilot project, attached to Morehead State University, for the overall purpose of coordinating activities and programs to improve high school graduation rates, access to postsecondary education, college-going rates, and education attainment of citizens in the Kentucky Appalachian region, which includes all counties designated by the Appalachian Regional Commission. In carrying out this purpose, the network shall:

(a) Promote and coordinate a network of education providers that include, but are not limited to representatives from the public and independent universities, community and technical colleges, local school districts, P-16 local councils, adult education providers, and other education entities;

(b) Conduct research and deliver outreach programs to help revitalize the region's efforts through innovative education approaches;

(c) Award mini-grants to local school districts through a competitive grant process to support a range of innovative retention and attainment programs, if funds are available;

(d) Leverage resources with other agencies and projects that are designed to promote enhanced education attainment of citizens in the region;

(e) Disseminate information about best practices for improving retention and increasing college-going rates;

(f) Market information regarding the value of education attainment to the economic growth and vitality of the region; and

(g) Carry out other functions to address the areas for improvement described in this section.

Morehead State University as fiscal agent for the network may receive funds from federal, state, and local sources and may accept private grants or donations to further the overall purpose of the network.

(3) The Kentucky Access to Higher Education Network shall make a biennial report of its activities to the Interim Joint Committee on Education by October 1, 2003 and make recommendations as to the need and feasibility of establishing similar networks across the state. The network shall provide a copy of its report and recommendations to the Council on Postsecondary Education.

HCR 56, A CONCURRENT RESOLUTION confirming the appointment of John R. Hall to the Council on Postsecondary Education.

WHEREAS, KRS 164.011 requires the Governor to appoint the thirteen citizen members of the Council on Postsecondary Education, subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, pursuant to KRS 164.011, the Governor has appointed John R. Hall as a citizen member of the Council on Postsecondary Education for a term expiring December 31, 2002; and

WHEREAS, the Senate and the House of Representatives find that Mr. Hall meets the requirements of KRS 164.011, being a resident and qualified voter of Kentucky, not holding an official relationship to any institution of higher education in Kentucky, and not engaging in any occupation or business inconsistent with his duties as a member of the Council on

Postsecondary Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate, pursuant to KRS 164.011, do confirm the appointment of Mr. John R. Hall to the Council on Postsecondary Education for a term expiring December 31, 2002.

Section 2. That the Clerk of the House shall forward a copy of this Resolution, with written notification of its adoption, to Mr. John R. Hall, 101 Idle Hour Drive #4, Lexington, Kentucky 40502 and to Governor Paul Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

The Committee on Tourism Development and Energy reported **HB 418, HJR 93** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 418, AN ACT relating to records of the Public Service Commission proceedings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.360 is amended to read as follows:

A full and complete record shall be kept of all contested proceedings had before the commission or any commissioner on any formal hearing, ***and may, at the commission's discretion, be made in videotape or other format. A stenographic transcript shall not be required. A party to a proceeding may, by motion to the commission, request that a stenographic transcript be made by a reporter approved by the commission. If the motion is granted, the expense of the transcript shall be borne by the requesting party. In such a case, the original transcript shall become the property of the commission and shall be incorporated into the commission's official record of the proceeding***[~~and all testimony shall be taken down by a reporter appointed by the commission~~].

HJR 93, A JOINT RESOLUTION directing the Department of Parks to conduct a study to determine the feasibility of constructing a lodge at Cave Run Lake.

WHEREAS, tourism is an increasingly vital component of Kentucky's economic well-being; and

WHEREAS, the Daniel Boone National Forest, consisting of over 680,000 acres that are home to over three hundred species of birds, mammals, amphibians, and reptiles, draws visitors from across the nation to witness its natural beauty; and

WHEREAS, Cave Run Lake, which was constructed in 1969 by the United States Army Corps of Engineers, is one of the Commonwealth's finest fishing, boating, and recreational lakes;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Department of Parks is directed to conduct a study to determine the feasibility of constructing a State Resort Lodge at Cave Run Lake. The study shall consider, but not be limited to, potential sites for locating a lodge in the Cave Run Lake area, and potential partnerships that may be formed between the United States Army Corps of Engineers, the Commonwealth's Department of Parks, and the private sector for planning, constructing, and operating a resort lodge in the Cave Run Lake area.

Section 2. The study shall be conducted with the assistance of the Tourism Development Cabinet, the United States Army Corps of Engineers, and tourism organizations that represent businesses such as hotels, motels, restaurants, and recreational boating in the area.

Section 3. The study findings and recommendations shall be reported to the Legislative Research Commission not later than October 30, 2003.

Section 4. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Banking and Insurance reported **HB 554, HCR 138,** and **SB 117** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 554, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17A-410 is amended to read as follows:

As used in KRS 304.17A-400 to 304.17A-480, unless the context requires otherwise:

(1) "Actual guaranteed acceptance program plan losses" means a dollar amount calculated by subtracting an insurer's guaranteed acceptance program plan claims from that insurer's guaranteed acceptance program plan premiums;

(2) "Benefits" means amounts paid by an insurer to covered lives or to third parties for the benefit of covered lives. "Benefits" do not include an insurer's administrative costs, any assessments under the plan, allocated loss adjustment expenses, reserves, or other overhead costs;

(3) "Guaranteed acceptance program plan claims" or "alternative underwriting mechanism losses" means the dollar amount of benefits actually paid by an insurer in a calendar year with respect to program plans or another claim measurement formula as the department may establish by administrative regulation to measure an insurer's costs, other than administrative costs, allocated loss adjustment expenses, reserves, or other overhead costs, with respect to a program plan ***or, in the case of a deceased individual, any claims paid on behalf of that individual which were incurred while the individual was a guaranteed acceptance program enrollee***;

(4) "Guaranteed acceptance program plan premiums" means the dollar amount of premiums received by an insurer with respect to program plans;

(5) "Guaranteed acceptance risk adjustment process" means the process of allocating guaranteed acceptance program plan losses provided for in KRS 304.17A-460;

(6) "Group market" means the health insurance market under which individuals obtain health insurance coverage, directly or through any arrangement, on behalf of themselves and their dependents through a group health plan or through any arrangement other than through the individual market, or through a federal health benefit plan or program;

(7) "Health insurance stop-loss policy" means any policy of insurance that directly or indirectly protects, in whole or in part, an employer who self-insures health benefits covering any residents in Kentucky from the risk of paying benefits in excess of any specified amount;

(8) "Market share" means a percentage calculated by dividing an insurer's health insurance coverage premiums in both the individual and group markets by the total amount of the health insurance coverage premiums in both the individual and group markets for all insurers;

(9) "Other coverage" means coverage under any of the following:

  (a) A group plan;

  (b) Part A or Part B of Title XVIII of the Social Security Act, 42 U.S.C. secs. 1995c et seq.;

  (c) A state plan under Title XIX of the Social Security Act, or any successor program;

  (d) Continuation coverage under any COBRA continuation provisions as defined in 42 U.S.C. sec. 300gg-91(d)(4) or under a similar program under any state law; or

  (e) Any other health insurance coverage which is not individual health insurance coverage;

(10) "Premiums" means amounts paid to insurers to purchase health insurance coverage and includes all amounts paid however denominated, including, but not limited to, amounts indicated as being charged for administrative costs, allocated loss adjustment expenses, reserve or other overhead costs;

(11) "Program" means the Kentucky Guaranteed Acceptance Program;

(12) "Refund" means an amount to be paid to an insurer by the program;

(13) "Stop-loss carrier" means any person providing health insurance stop-loss coverage;

(14) "Stop-loss premiums" means amounts paid to purchase health insurance stop-loss coverage; and

(15) "Total actual guaranteed acceptance program plan losses" means a dollar amount equal to the sum of the actual program plan losses of all insurers participating in the program.

HCR 138, A CONCURRENT RESOLUTION directing the Interim Joint Committee on Banking and Insurance to study the feasibility of legislation that would create a mechanism to allow small employers, including self-employed persons, to join together solely for the purpose of procuring health insurance coverage.

WHEREAS, small employers and self-employed persons in Kentucky need access to administrative and premium rate savings available to larger groups in the purchase of health insurance; and

WHEREAS, more affordable premiums and costs will attract more small employers and self-employed persons to the health insurance market; and

WHEREAS, a mechanism needs to be developed to allow small employers, including self-employed persons, to join together solely for the purpose of procuring health insurance coverage; and

WHEREAS, such a mechanism needs to be attractive to health insurers, provide a meaningful choice of health care providers and insurers, and provide for accountability to members;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Interim Joint Committee on Banking and Insurance shall study the feasibility of legislation that would create a mechanism to allow small employers, including self-employed persons, to join together solely for the purpose of procuring health insurance coverage.

Section 2. The committee shall report its findings and recommendations for legislative action to the Legislative Research Commission on or before December 1, 2002.

Section 3. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

SB 117, AN ACT relating to fire protection sprinkler contractors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198B.595 is amended to read as follows:

(1) The commissioner shall not issue a license under KRS 198B.560 and 198B.580, unless the fire protection sprinkler contractor applicant files with the commissioner proof of liability insurance coverage of not less than two hundred and fifty thousand dollars ($250,000) one person/maximum and five hundred thousand dollars ($500,000) one accident/maximum and workers' compensation insurance as provided for in KRS Chapter 342.

(2) The ***worker's compensation*** insurance required by this section must be in the form of certificate of insurance executed by an insurer authorized to do business in this state~~[and countersigned by a local agent licensed in this state]~~. ***The liability insurance required by this section shall be in the form of certificate of insurance executed by an insurer authorized to do business in this state or exported by a licensed surplus lines broker to an eligible carrier pursuant to KRS 304.10-020 to 304.10-210.*** Insurance certificates filed with the commissioner under this section shall remain in force until the insurer has terminated future liability by a thirty (30) day notice to the commissioner.

(3) Failure to maintain the insurance required hereunder constitutes grounds for denial, suspension or revocation of a license under KRS 198B.620 by the commissioner.

Calendar

HB 415, HB 501, HB 517, HB 634, HB 129, HB 289, HB 444, HB 584, HB 622, HB 624, HB 643, HB 648, HB 659, SB 45, and **SB 61** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 103** and **HB 170** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:22 p.m.)

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications (Continued)

Representative Stumbo moved to suspend the rules to allow for a Rules Committee Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 417, HB 165, HB 443, HB 560, HB 194, HB 659,** and **SB 45** have been posted for passage in the Orders of the Day for February 21, 2002.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 444, HB 584**

Motions, Petitions, and Communications (Continued)

Representative Gray moved that the rules be suspended to grant floor privileges to special guests. Agreed.

Representative Baugh moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Baugh moved that he be recorded as voting "nay" on **HB 452, HB 511,** and **HB 557**. Agreed.

Representative Baugh moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Baugh moved that he be recorded as voting "yea" on **HB 200, HB 599, HB 607, HB 428, HB 520, HB 170, HB 103, HCR 31,** and **HR 107**. Agreed.

Report On Enrolled Bills (Continued)

HB 103 and **HB 170** were delivered to the Governor on February 20, 2002, at 2:50 p.m.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that the rules be suspended to grant floor privileges and to act upon Legislative Citations. Agreed.

Representative Stumbo moved the adoption of the following **Legislative Citation No. 52**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the J. W. Kinzer Drilling Company Business Award Recipient 2001 Governor's Awards in the Arts given by Governor Paul E. Patton and First Lady Judi Patton to a business which has demonstrated outstanding interest in and support of the arts. Upon the considered recommendation garnered by the Kentucky Arts Council, this company was selected for serving as a beacon of corporate citizenship by virtue of its tireless support of the arts in Kentucky. Through generous funding and shared corporate leadership, this outstanding company has been instrumental in the success and survival of a wide range of important arts organizations and educational institutions across Kentucky, including the Jenny Wiley Theatre, the Kentucky Opry, the Mountain Arts Center, Pikeville College, and the Wesley Christian School. Utilizing its resources for the good of the community and of this fine Commonwealth, the J. W. Kinzer Drilling Company has played a pivotal role in the survival and prosperity of the arts in Kentucky. The members of this honorable body are delighted to join Representative Gregory D. Stumbo in commending this outstanding company for demonstrating their firm belief that the arts are, indeed, good business. Done in Frankfort, Kentucky, this twentieth day of February, in the year two thousand and two.

Legislative Citation No. 52 was adopted without objection.

Representative C. Belcher moved the adoption of the following **Legislative Citation No. 44**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Barbara Kingsolver National Award Recipient 2001 Governor's Awards in the Arts given by Governor Paul E. Patton and First Lady Judi Patton to a Kentucky artist who has achieved national acclaim. Upon the considered recommendation garnered by the Kentucky Arts Council, this native daughter of the storytelling culture of Eastern Kentucky, and graduate of DePauw University in Indiana and the University of Arizona at Tucson, was selected for the tremendous impact that she has had on the literary landscape of this nation. Through her extensive background in science and her experience in journalism acquired from several years of feature writing for such publications as The New York Times and Smithsonian, she brings to her fiction a unique perspective and voice, able to combine the rich language and imagery of her native home with remarkable discipline and specificity of fact. Having published her first novel, The Bean Trees, in 1988, this phenomenal artist has produced works of both fiction and non-fiction and has been the well-deserving recipient of several prestigious accolades, including the Los Angeles Times Book Award for Fiction, the PEN Center USA West Literary Award for Fiction, the Edward Abbey Award for Ecofiction, and is the only author whose work has been nominated three times for the ABBY Award, an honor which recognizes those literary works which booksellers most enjoy handling. The members of this honorable body are delighted to join Representative Carolyn Belcher in extending sincere congratulations to Barbara Kingsolver for her many accomplishments and in paying tribute to her for the inspiration and enjoyment that she has provided all those whose pleasure it has been to experience the abundance of her life's work. Done in Frankfort, Kentucky, this twentieth day of February, in the year two thousand and two.

Legislative Citation No. 44 was adopted without objection.

Representative Moberly moved the adoption of the following **Legislative Citation No. 50**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors The Center for Economic Development, Entrepreneurship and Technology Government Award Recipient/2001 Governor's Awards in the Arts given by Governor Paul E. Patton and First Lady Judi Patton to an individual or agency supporting the arts through government action. Upon the considered recommendation garnered by the Kentucky Arts Council, this organization was selected for recognizing the arts as a critical asset to the economic vitality of this fine Commonwealth. The staff and administration of CEDET have worked with great distinction to develop artisan-related strategies to address various economic development needs within Kentucky. Working with the support of a federal grant from the Economic Development Administration and a matching grant of faculty time-release and facility resources from Eastern Kentucky University, this outstanding organization offers technical assistance to non-profit organizations, businesses and governments in several significant areas, including grant writing, planning assistance, applied research, training, business development, manufacturing assistance and through partnerships with other agencies to provide additional consulting and assistance. CEDET has played a pivotal role in the development of such sound economic endeavors as the new Kentucky Artisan Center at Berea, Kentucky Hills Industries, and the Kentucky Artisan Heritage Trails, among many more. The members of this body are delighted to join with Representative Harry Moberly in paying tribute to all those who have contributed to the success of CEDET for the tremendous vision and foresight with which they have worked on behalf of their fellow citizens of this fine Commonwealth and in ardent support of the arts in Kentucky. Done in Frankfort, Kentucky, this twentieth day of February, in the year two thousand and two.

Legislative Citation No. 50 was adopted without objection.

Representative Brinkman moved the adoption of the following **Legislative Citation No. 45**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Melvin Dickinson Artist Award Recipient 2001 Governor's Awards in the Arts given by Governor Paul E. Patton and First Lady Judi Patton to an individual for a lifetime of achievement in the arts. Upon the considered recommendation garnered by the Kentucky Arts Council, this distinguished gentleman was selected for his years of hard work as the founder and conductor of the Louisville Bach Society. He has further been recognized for his vast knowledge of the work of Johann Sebastian Bach and his enthusiasm and deep appreciation of classical music which has earned him the highest respect of his peers and those musicians whom he has led and the great delight of audiences across this fine Commonwealth. He is a graduate of the University of Kentucky and studied the music of J. S. Bach for two years in Germany before establishing his first Bach group at the Church of Ascension in Frankfort, Kentucky, in 1960. He would go on to found the Louisville Bach Society in 1964, which became a widely-respected and tremendously successful arts organization and which not only serves the needs of its patrons, but plays two concerts a year geared specifically for school children as a way to promote education about the beauty and history of classical music. The members of this honorable body are delighted to join Representative Scott W. Brinkman in paying tribute to Melvin Dickinson, an artist of whom all Kentuckians can be proud. Done in Frankfort, Kentucky, this twentieth day of February, in the year two thousand and two.

Legislative Citation No. 45 was adopted without objection.

Representative Simpson moved the adoption of the following **Legislative Citation No. 49**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors The Covington Community Center Community Arts Award Recipient 2001 Governor's Awards in the Arts given by Governor Paul E. Patton and First Lady Judi Patton to an organization that has played a lead role in the encouragement of the arts in the community. Upon the considered recommendation garnered by the Kentucky Arts Council, this organization was selected for recognizing the tremendous importance of cooperation between citizens, businesses and schools to support the creative endeavors of both individuals and neighborhoods. The Covington Community Center has contributed richly to the quality of life in the City of Covington by fostering unity and collaborative efforts and by offering unique arts opportunities to the public in such areas as community oral history, visual arts, dance, theater and music. The phenomenal efforts of this remarkable organization over the course of two decades has recently led to the Covington Community Center being selected as the state host site for Artists and Communities: America Creates for the Millennium, a National Endowment for the Arts program. The members of this honorable body are delighted to join Representative Arnold Simpson in expressing profound gratitude to all those who have contributed to the success of the Covington Community Center for their most valuable efforts to broaden and enrich the lives of all Kentuckians through exposure to and active participation in the arts. Done in Frankfort, Kentucky, this twentieth day of February, in the year two thousand and two.

Legislative Citation No. 49 was adopted without objection.

Representative Barrows moved the adoption of the following **Legislative Citation No. 43**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Crit Luallen Milner Award Recipient 2001 Governor's Awards in the Arts given by Governor Paul E. Patton and First Lady Judi Patton to an individual for outstanding contributions to the arts. Upon the considered recommendation garnered by the Kentucky Arts Council, this distinguished honoree, a native of Frankfort, Kentucky, and esteemed graduate of Centre College, has demonstrated a profound commitment to the arts in this great Commonwealth and the role it plays in the economic vitality of the state. Working closely in 1986 with then-Governor Martha Layne Collins as the Commissioner of the Kentucky Department of the Arts to broaden the categories for the Governor's Awards in the Arts, Secretary Luallen also assisted Governor Collins in the establishment of the Governor's School for the Arts and was instrumental in doubling the state arts grants through the creation of the Arts Development Program, which became a companion to the Challenge Grant Program. A dedicated public servant, Ms. Luallen has also served the citizens of Kentucky as the Secretary of the Finance and Administration Cabinet, the Secretary of the Kentucky Tourism Cabinet, a Special Assistant to the Governor, the President of the Greater Louisville Economic Development Partnership and currently, as the Secretary of the Governor's Executive Cabinet, the highest appointed position in state government. The members of this honorable body respectfully join Representative Joe Barrows in paying well-deserved tribute to this esteemed Kentucky citizen. Done in Frankfort, Kentucky, this twentieth day of February, in the year two thousand and two.

Legislative Citation No. 43 was adopted without objection.

Representative Damron moved the adoption of the following **Legislative Citation No. 46**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors J. D. Crowe Folk Heritage Award Recipient 2001 Governor's Awards in the Arts given by Governor Paul E. Patton and First Lady Judi Patton to an individual that has made an outstanding effort to perpetuate and promote Kentucky's unique artistic traditions. Upon the considered recommendation garnered by the Kentucky Arts Council, this native of Lexington, Kentucky, who acquired his first banjo at the age of 13, was selected for his remarkable musical skill which he has honed to such a degree as to become a legend among his peers and fellow musicians. Today, he is cited by virtually all leading banjoists in Bluegrass music as being an important influence on their playing. Having just graduated high-school, he was hand-picked by Jimmy Martin to play banjo full-time for his band and would go on to lend his infinite talents to several bands, most recently as the leader of the New South, a respected Bluegrass band known for its immense talent and innovation. In recognition of his remarkable skill and ability, Mr. Crowe was nominated for a prestigious Grammy Award; was named in 1994 as Banjo Player of the Year by the International Bluegrass Music Association; and, is widely-known as a "living icon of bluegrass music." The members of this honorable body are delighted to join Representative Robert R. Damron in paying tribute to J. D. Crowe for devoting his talents and energies to shoring up the backbone of Kentucky's arts and culture and helping Kentucky maintain its reputation as home to a wealth of diverse musical traditions. Done in Frankfort, Kentucky, this twentieth day of February, in the year two thousand and two.

Legislative Citation No. 46 was adopted without objection.

Representative Bather moved the adoption of the following **Legislative Citation No. 48**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Diane Downs Education Award Recipient 2001 Governor's Awards in the Arts given by Governor Paul E. Patton and First Lady Judi Patton to an individual who has made significant contributions to the arts in education. Upon the considered recommendation garnered by the Kentucky Arts Council, this honored graduate of Morehead State University was selected for her role as the esteemed Founder and Director of The Fabulous Leopard Percussionists, a unique group of young performers who have showcased their outstanding work for senior citizens groups, elementary schools across Jefferson County, and in several competitions and festivals, performing with many notable musicians, including Jerry Steinholtz, Victor Mendoza, Louie Bellson, Ndugu Chancler, and Ruben Alvarez. The group, under the passionate and discerning leadership of Ms. Downs, is unique not only for its remarkable talent and dazzling performances, but also for its approach to selecting its members. Musicians are chosen for participation based not upon traditional auditions but upon academics and behavior, an equal-access approach which promotes self-confidence, personal discipline, community awareness, understanding of cultural differences, and the value of striving for success. The members of this honorable body are delighted to join Representative Paul Bather in honoring Diane Downs and expressing sincere gratitude to her for her tireless efforts to promote arts awareness and enjoyment in this fine Commonwealth. Done in Frankfort, Kentucky, this twentieth day of February, in the year two thousand and two.

Legislative Citation No. 48 was adopted without objection.

Representative Palumbo moved the adoption of the following **Legislative Citation No. 51**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Arts Across Kentucky Media Award Recipient 2001 Governor's Awards in the Arts given by Governor Paul E. Patton and First Lady Judi Patton to an individual or organization that has shown an outstanding commitment to bringing the arts to the attention of the public. Upon the considered recommendation garnered by the Kentucky Arts Council, this magazine was selected for being one of Kentucky's only publications dedicated to expounding upon the rich cultural and artistic heritage of this fine Commonwealth. Arts Across Kentucky was founded three years ago by Nancy Bronner, who currently edits the magazine, to provide a unified voice for the fertile arts and crafts movement in Kentucky. It has since broadened to include the coverage of a wide range of artistic endeavors in the Commonwealth, including photography, tourism, poetry, culinary arts and creative writing. Utilizing the expertise of a talented staff and remaining steadfast in its aim to broaden cultural and artistic horizons through information and education and to provide necessary exposure to artists across Kentucky, Arts Across Kentucky has proven itself to be a vital tool in the documentation and promotion of this state's long-standing tradition of excellence in such artistic areas as craft, fine art, music, literature and dance. The members of this honorable body are delighted to join Representative Ruth Ann Palumbo in paying tribute to all those who have contributed to the phenomenal success of Arts Across Kentucky and in extending to them best wishes for success as they continue to work on behalf of their fellow citizens and in support of the arts across this fine state. Done in Frankfort, Kentucky, this twentieth day of February, in the year two thousand one.

Legislative Citation No. 51 was adopted without objection.

Representative Riner moved the adoption of the following **Legislative Citation No. 47.**

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors The Collaborative for Teaching and Learning Education Award Recipient 2001 Governor's Awards in the Arts given by Governor Paul E. Patton and First Lady Judi Patton to an organization that has made significant contributions to the arts in education. Upon the considered recommendation garnered by the Kentucky Arts Council, this organization was selected for its dedication to the ideal that the arts must be fully integrated into classroom curriculum in order to significantly enhance the intellectual development of students. To this purpose, the Collaborative for Teaching and Learning has created an innovative teaching and learning practice called, Different Ways of Knowing, designed to infuse the curricula of nearly 400 Kentucky schools with arts education and to foster the improved academic performance and creative potential of students across the Commonwealth. A Louisville-based, non-profit organization, The Collaboration has been the driving force behind several significant endeavors designed to enhance arts education in Kentucky, including spearheading the state's Arts, Culture and Technology grant application to the Annenberg Foundation which resulted in $1.1 million in funding to be distributed among twenty-four statewide arts and education organizations. Further, this phenomenal association has partnered with several Kentucky universities to imbue arts-based learning into each school's education methodology courses. This honorable body is delighted to join Representative Tom Riner in applauding the accomplishments of The Collaborative for Teaching and Learning and in extending best wishes for the continued success of this organization as they continue to enrich the lives of the youth of this Commonwealth. Done in Frankfort, Kentucky, this twentieth day of February, in the year two thousand and two.

Legislative Citation No. 47 was adopted without objection.

Orders of the Day

HB 40, with Committee Substitute, Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Arnold moved the adoption of the Committee Substitute to **HB 40**. Agreed.

Representative Thomas moved the adoption of Committee Amendment 1 to **HB 40**. Agreed.

Representative Smith moved that **HB 40** be placed on the Clerk's Desk.

The motion that **HB 40** be laid on the Clerk's Desk was rejected by voice vote.

Representative J. Arnold moved that **HB 40**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 83, Nays 13.** (See February 20, 2002, roll call on **HB 40** - Appendix.)

HB 40, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative J. Arnold moved that the vote by which **HB 40**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representatives R. Adams asked that the Journal note his abstention from voting on **HB 40** in accordance with Section 57 of the Kentucky Constitution.

HB 104, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 340** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:45 p.m.)

Orders of the Day (Continued)

Representative J. Turner moved the adoption of Floor Amendment No. 2 to **HB 104**. Agreed.

Representative Jenkins moved that **HB 104**, as amended, be passed.

On the roll call the vote was: **Yeas 60, Nays 24**. (See February 20, 2002, roll call on **HB 104** - Appendix.)

HB 104, as amended, was passed and the title agreed to.

Representative Jenkins moved that the vote by which **HB 104**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 572, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meeks moved the adoption of Floor Amendment No. 1 to **HB 572**. Agreed.

Representative Meeks moved the adoption of Floor Amendment No. 2 to **HB 572**. Agreed.

Representative Lindsay moved the adoption of Floor Amendment No. 3 to **HB 572**. Agreed.

Representative Meeks moved that **HB 572**, as amended, be passed.

On the roll call the vote was: **Yeas 83, Nays 15**. (See February 20, 2002, roll call on **HB 572** - Appendix.)

HB 572, as amended, was passed and the title agreed to.

Representative Meeks moved that the vote by which **HB 572**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 469, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of the Committee Substitute to **HB 469**. Agreed.

Representative Callahan moved that **HB 469**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 20, 2002, roll call on **HB 469** - Appendix.)

HB 469, by way of Committee Substitute, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 469**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 86 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved that **HJR 86** be adopted.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 20, 2002, roll call on **HJR 86** - Appendix.)

HJR 86 was adopted.

Representative A. Arnold moved that the vote by which **HJR 86** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 104 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HCR 104** be adopted.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 20, 2002, roll call on **HCR 104** - Appendix.)

HCR 104 was adopted.

Representative Gray moved that the vote by which **HCR 104** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that the rules be suspended for Introductions of Bills and Committee Reports. Agreed

Introduction of Bills and Resolutions (Continued)

HB 715, by Representatives Marzian and Burch: AN ACT relating to taxation.

HB 716, by Representatives Weaver and J. Lee: AN ACT relating to judicial districts.

HB 717, by Representative Riggs: AN ACT relating to retirement.

HB 718, by Representatives Stein and Napier: AN ACT relating to urban-county government retirement plans and declaring an emergency.

HB 719, by Representative Baugh: AN ACT relating to tourist and convention commissions.

HB 720, by Representatives Richards, Weaver, Cherry, Siler, Scott, and Haydon: AN ACT relating to the Kentucky National Guard.

HB 721, by Representatives Riggs, Crimm, and Gooch: AN ACT relating to group health insurance.

HCR 153, by Representative Westrom: A CONCURRENT RESOLUTION creating a task force to study the oversight of health services by the Cabinet for Health Services.

HCR 154, by Representatives Gray, Hall, Richards, Buckingham, and Geveden: A CONCURRENT RESOLUTION urging the Congressional Delegation of the Commonwealth of Kentucky to support legislation eliminating the federal income tax on pensions.

HR 155, by Representatives Gray and Geveden: A RESOLUTION honoring the working men and women of the Commonwealth who have died on the job, and urging the Governor to declare April 28, 2002, "Workers' Memorial Day."

HR 156, by Representative Stein: A RESOLUTION adjourning the House of Representatives in honor of Marina Ann Dickinson upon the occasion of her adoption and American citizenship.

HJR 157, by Representative Wilkey: A JOINT RESOLUTION naming the Veterans Memorial Highway in Allen County.

HCR 158, by Representatives Richards and Moberly: A CONCURRENT RESOLUTION relating to the Social Security Act's penalizing of members of the Kentucky Teachers' Retirement System.

HCR 159, by Representatives Rader, Reinhardt, Mobley, Thomas, De. Butler, Childers, Bowling, Callahan, A. Arnold, and Adkins: A CONCURRENT RESOLUTION directing the Legislative Research Commission to create a task force to study the potential development of Kentucky's grape and berry industry.

HJR 160, by Representative Cherry: A JOINT RESOLUTION requesting the Kentucky Department of Education to provide education and training to school personnel regarding the use of psychotropic drugs as part of Children's treatment; urging the Cabinet for Families and Children to ensure that a parent's refusal to allow a child to receive psychotropic drugs as a part of treatment not be used as the sole grounds for taking a child into custody; and requesting the Kentucky Commission on Services and Support for Individuals with Mental Illness, Alcohol, and Other Drug Abuse Disorders, and Dual Diagnoses, and Regional Mental Health Planning Councils to study the issues relating to psychotropic drugs in Kentucky.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved to waive the posting requirement on the following: **HCR 151** and **HCR 147**. Agreed

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Judiciary: **HB 145, HB 432, HB 384**

Education: **HB 681, HB 684, HB 680, SB 147**

Report of Committees (Continued)

The Committee on Judiciary reported **HB 100** with Committee Substitute and Committee Amendment attached thereto, **HB 627** with Committee Substitute attached thereto, **HB 628, HB 644** with Committee Substitute attached thereto, **SB 26** with Committee Substitute attached thereto, and **SB 70** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 100, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189A.010 is amended to read as follows:

(1) A person shall not operate or be in physical control of a motor vehicle anywhere in this state:

(a) Having an alcohol concentration of 0.08 or more as measured by a scientifically reliable test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle;

(b) While under the influence of alcohol;

(c) While under the influence of any other substance or combination of substances which impairs one's driving ability;

(d) While under the combined influence of alcohol and any other substance which impairs one's driving ability; or

(e) Having an alcohol concentration of 0.02 or more as measured by a scientifically reliable test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle, if the person is under the age of twenty-one (21).

(2) With the exception of the results of the tests administered pursuant to KRS 189A.103(7), if the sample of the person's blood or breath that is used to determine the alcohol concentration thereof was obtained more than two (2) hours after cessation of operation or physical control of a motor vehicle, the results of the test or tests shall be inadmissible as evidence in a prosecution under subsection (1)(a) or (e) of this section. The results of the test or tests, however, may be admissible in a prosecution under subsection (1)(b) or (d) of this section.

(3) In any prosecution for a violation of subsection (1)(b) or (d) of this section in which the defendant is charged with having operated or been in physical control of a motor vehicle while under the influence of alcohol, the alcohol concentration in the defendant's blood as determined at the time of making analysis of his blood or breath shall give rise to the following presumptions:

(a) If there was an alcohol concentration of less than 0.05 based upon the definition of alcohol concentration in KRS 189A.005, it shall be presumed that the defendant was not under the influence of alcohol; and

(b) If there was an alcohol concentration of 0.05 or greater but less than 0.08 based upon the definition of alcohol concentration in KRS 189A.005, that fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but that fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant.

The provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the questions of whether the defendant was under the influence of alcohol or other substances, in any prosecution for a violation of subsection (1)(b) or (d) of this section.

(4) The fact that any person charged with violation of subsection (1) of this section is legally entitled to use any substance, including alcohol, shall not constitute a defense against any charge of violation of subsection (1) of this section.

(5) Any person who violates the provisions of paragraph (a), (b), (c), or (d) of subsection (1) of this section shall:

(a) For the first offense within a five (5) year period, be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500), or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days, or both. Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than forty-eight (48) hours nor more than thirty (30) days in lieu of fine or imprisonment, or both. If any of the aggravating circumstances listed in subsection (11) of this section are present[~~ while the person was operating or in physical control of a motor vehicle~~], the mandatory minimum term of imprisonment shall be four (4) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release.

(b) For the second offense within a five (5) year period, be fined not less than three hundred fifty dollars ($350) nor more than five hundred dollars ($500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be fourteen (14) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release.

(c) For a third offense within a five (5) year period, be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be sixty (60) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release.

(d) For a fourth or subsequent offense within a five (5) year period, be guilty of a Class D felony. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be two hundred forty (240) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of release.

(e) For purposes of this subsection, prior offenses shall include all convictions in this state, and any other state or jurisdiction, for operating or being in control of a motor vehicle while under the influence of alcohol or other substances that impair one's driving ability, or any combination of alcohol and such substances, or while having an unlawful alcohol concentration, or driving while intoxicated, but shall not include convictions for violating subsection (1)(e) of this section. A court shall receive as proof of a prior conviction a copy of that conviction, certified by the court ordering the conviction.

(6) Any person who violates the provisions of subsection (1)(e) of this section shall have his driving privilege or operator's license suspended by the court for a period of no less than thirty (30) days but no longer than six (6) months, and the person shall be fined no less than one hundred dollars ($100) and no more than five hundred dollars ($500), or sentenced to twenty (20) hours of community service in lieu of a fine. A person subject to the penalties of this subsection shall not be subject to the penalties established in subsection (5) of this section or any other penalty established pursuant to KRS Chapter 189A, except those established in KRS 189A.040(1).

(7) If the person is under the age of twenty-one (21) and there was an alcohol concentration of 0.08 or greater based on the definition of alcohol concentration in KRS 189A.005, the person shall be subject to the penalties established pursuant to subsection (5) of this section.

(8) For a second or third offense within a five (5) year period, the minimum sentence of imprisonment or community labor shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a fourth or subsequent offense under this section, the minimum term of imprisonment shall be one hundred twenty (120) days, and this term shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a second or subsequent offense, at least forty-eight (48) hours of the mandatory sentence shall be served consecutively.

(9) When sentencing persons under subsection (5)(a) of this section, at least one (1) of the penalties shall be assessed and that penalty shall not be suspended, probated, or subject to conditional discharge or other form of early release.

(10) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(11) For purposes of this section, aggravating circumstances are any one (1) or more of the following:

(a) Operating a motor vehicle in excess of thirty (30) miles per hour above the speed limit;

(b) Operating a motor vehicle in the wrong direction on a limited access highway;

(c) Operating a motor vehicle that causes an accident resulting in death or serious physical injury as defined in KRS 500.080;

(d) Operating a motor vehicle while the alcohol concentration in the operator's blood or breath is 0.18 or more as measured by a test or tests of a sample of the operator's blood or breath taken within two (2) hours of cessation of operation of the motor vehicle;

(e) Refusing to submit to any test or tests of one's blood, breath, or urine requested by an officer having reasonable grounds to believe the person was operating or in physical control of a motor vehicle in violation of subsection (1) of this section; and

(f) Operating a motor vehicle that is transporting a passenger under the age of twelve (12) years old.

(12) Any person who violates the provisions of subsection (1) of this section shall be assessed twenty dollars ($20) in addition to the fines imposed by subsections (5) and (6) of this section. Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.

Section 2. KRS 189A.103 is amended to read as follows:

The following provisions shall apply to any person who operates or is in physical control of a motor vehicle or a vehicle that is not a motor vehicle in this Commonwealth:

(1) He has given his consent to one (1) or more tests of his blood, breath, and urine, or combination thereof, for the purpose of determining alcohol concentration or presence of a substance which may impair one's driving ability, if an officer has reasonable grounds to believe that a violation of KRS 189A.010(1) or 189.520(1) has occurred.

(2) Any person who is dead, unconscious, or otherwise in a condition rendering him incapable of refusal is deemed not to have withdrawn the consent provided in subsection (1) of this section, and the test may be given.

(3) The breath, blood, and urine tests administered pursuant to this section shall be administered at the direction of a peace officer having reasonable grounds to believe the person has committed a violation of KRS 189A.010(1) or 189.520(1).

 (a) Tests of the person's breath, blood, or urine, to be valid pursuant to this section, shall have been performed according to the administrative regulations promulgated by the secretary of the Justice Cabinet, and shall have been performed, as to breath tests, only after a peace officer has had the person under personal observation~~[at the location of the test]~~ for a minimum of twenty (20) minutes.

 (b) All breath tests shall be administered by a peace officer holding a certificate as an operator of a breath analysis instrument, issued by the secretary of the Justice Cabinet or his designee.

(4) A breath test shall consist of a test which is performed in accordance with the manufacturer's instructions for the use of the instrument. The secretary of the Justice Cabinet shall keep available for public inspection copies of these manufacturer's instructions for all models of breath testing devices in use by the Commonwealth of Kentucky.

(5) When the preliminary breath test, breath test, or other evidence gives the peace officer reasonable grounds to believe there is impairment by a substance which is not subject to testing by a breath test, then blood or urine tests, or both, may be required in addition to a breath test, or in lieu of a breath test.

(6) Only a physician, registered nurse, phlebotomist, medical technician, or medical technologist not otherwise prohibited by law can withdraw any blood of any person submitting to a test under this section.

(7) After the person has submitted to all alcohol concentration tests and substance tests requested by the officer, the person tested shall be permitted to have a person listed in subsection (6) of this section of his own choosing administer a test or tests in addition to any tests administered at the direction of the peace officer. Tests conducted under this section shall be conducted within a reasonable length of time. Provided, however, the nonavailability of the person chosen to administer a test or tests in addition to those administered at the direction of the peace officer within a reasonable time shall not be grounds for rendering inadmissible as evidence the results of the test or tests administered at the direction of the peace officer.

Section 3. KRS 189A.105 is amended to read as follows:

(1) A person's refusal to submit to tests under KRS 189A.103 shall result in revocation of his driving privilege as provided in this chapter.

(2) (a) At the time a breath, blood, or urine test is requested, the person shall be informed:

  1. That, if the person refuses to submit to such tests, the ***person's privilege to drive shall be revoked for a period of six (6) months, or more, pursuant to this chapter***~~[fact of this refusal may be used against him in court as evidence of violating KRS 189A.010 and will result in revocation of his driver's license, and if the person refuses to submit to the tests and is subsequently convicted of violating KRS 189A.010(1) then he will be subject to a mandatory minimum jail sentence which is twice as long as the mandatory minimum jail sentence imposed if he submits to the tests, and that if the person refuses to submit to the tests he will be unable to obtain a hardship license]~~; and

  2. That, if a test is taken, ***and the results indicate that the person has an alcohol concentration of 0.08 or greater, or, if the person is under the influence of alcohol or a substance that impairs one's driving ability or a combination of alcohol and such substance, the person shall be subject to criminal penalties, including the possibility of incarceration, and the person's driving license shall be revoked for a period of at least thirty (30) days***~~[the results of the test may be used against him in court as evidence of violating KRS 189A.010(1), and that if the results of the test are 0.18 or above and the person is subsequently convicted of violating KRS 189A.010(1), then he will be subject to a sentence that is twice as long as the mandatory minimum jail sentence imposed if the results are less than 0.18]~~; and

  3. That if the person first submits to the requested alcohol and substance tests, the person has the right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested.

 (b) Nothing in this subsection shall be construed to prohibit a judge of a court of competent jurisdiction from issuing a search warrant or other court order requiring a blood or urine test, or a combination thereof, of a defendant charged with a violation of KRS 189A.010, or other statutory violation arising from the incident, when a person is killed or suffers physical injury, as defined in KRS 500.080, as a result of the incident in which the defendant has been charged.

[~~(3) During the period immediately preceding the administration of any test, the person shall be afforded an opportunity of at least ten (10) minutes but not more than fifteen (15) minutes to attempt to contact and communicate with an attorney and shall be informed of this right. Inability to communicate with an attorney during this period shall not be deemed to relieve the person of his obligation to submit to the tests and the penalties specified by KRS 189A.010 and 189A.107 shall remain applicable to the person upon refusal. Nothing in this section shall be deemed to create a right to have an attorney present during the administration of the tests, but the person's attorney may be present if the attorney can physically appear at the location where the test is to be administered within the time period established in this section.~~

~~(4) Immediately following the administration of the final test requested by the officer, the person shall again be informed of his right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested. He shall then be asked "Do you want such a test?" The officer shall make reasonable efforts to provide transportation to the tests.~~]

Section 4. KRS 189A.104 is amended to read as follows:

(1) The only alcohol or substance testing that is subject to refusal or enhancement of penalties provided for in this chapter is:

  (a) Breath analysis testing by a machine installed, tested, and maintained by the Commonwealth for that specific purpose[~~ at a police station or detention facility~~];

  (b) Blood or urine testing at the request of the officer at a police station, detention facility, or medical facility; or

  (c) Combination of tests required in paragraphs (a) or (b) of this subsection.

(2) The results of any breath analysis by an instrument other than one specified in subsection (1) of this section shall be inadmissible in court.

Section 5. KRS 189A.107 is amended to read as follows:

(1) A person who refuses to submit to an alcohol concentration or substance test requested by an officer having reasonable grounds to believe that the person violated KRS 189A.010(1) shall have his driver's license suspended by the court during the pendency of the action under KRS 189A.200 ***or for six (6) months, whichever period is longer***.

(2) In the event a defendant is not convicted of a violation of KRS 189A.010(1) in a case in which it is alleged that he refused to take an alcohol concentration or substance test, upon motion of the attorney for the Commonwealth, the court shall conduct a hearing, without a jury, to determine by clear and convincing evidence if the person actually refused the testing. However, the hearing shall not be required if the court has made a previous determination of the issue at a hearing held under KRS 189A.200 and 189A.220. If the court finds that the person did refuse to submit to the testing, the court shall suspend the person's driver's license for a period of time ***either*** within the time range specified that the license would have been suspended upon conviction as set forth in KRS 189A.070(1) ***or for six (6) months, whichever period is longer***.

The Committee Substitute to **HB 100** is as follows:

HB 100, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189A.105 is amended to read as follows:

(1) A person's refusal to submit to tests under KRS 189A.103 shall result in revocation of his driving privilege as provided in this chapter.

(2) (a) At the time a breath, blood, or urine test is requested, the person shall be informed:

  1. That, if the person refuses to submit to such tests, the ***person's privilege to drive shall be revoked for a period of six (6) months, or more, pursuant to this chapter***[~~fact of this refusal may be used against him in court as evidence of violating KRS 189A.010 and will result in revocation of his driver's license, and if the person refuses to submit to the tests and is subsequently convicted of violating KRS 189A.010(1) then he will be subject to a mandatory minimum jail sentence which is twice as long as the mandatory minimum jail sentence imposed if he submits to the tests, and that if the person refuses to submit to the tests he will be unable to obtain a hardship license~~]; and

  2. That, if a test is taken, ***and the results indicate that the person has an alcohol concentration of 0.08 or greater, or, if the person is under the influence of alcohol or a substance that impairs one's driving ability or a combination of alcohol and such substance, the person shall be subject to criminal penalties, including the possibility of incarceration, and the person's driving license shall be revoked for a period of at least thirty (30) days***[~~the results of the test may be used against him in court as evidence of violating KRS 189A.010(1), and that if the results of the test are 0.18 or above and the person is subsequently convicted of violating KRS 189A.010(1), then he will be subject to a sentence that is twice as long as the mandatory minimum jail sentence imposed if the results are less than 0.18~~]; and

  3. That if the person first submits to the requested alcohol and substance tests, the person has the right to have

a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested.

(b) Nothing in this subsection shall be construed to prohibit a judge of a court of competent jurisdiction from issuing a search warrant or other court order requiring a blood or urine test, or a combination thereof, of a defendant charged with a violation of KRS 189A.010, or other statutory violation arising from the incident, when a person is killed or suffers physical injury, as defined in KRS 500.080, as a result of the incident in which the defendant has been charged.

(3) During the period immediately preceding the administration of any test, the person shall be afforded an opportunity of at least ten (10) minutes but not more than fifteen (15) minutes to attempt to contact and communicate with an attorney and shall be informed of this right. Inability to communicate with an attorney during this period shall not be deemed to relieve the person of his obligation to submit to the tests and the penalties specified by KRS 189A.010 and 189A.107 shall remain applicable to the person upon refusal. Nothing in this section shall be deemed to create a right to have an attorney present during the administration of the tests, but the person's attorney may be present if the attorney can physically appear at the location where the test is to be administered within the time period established in this section.

(4) Immediately following the administration of the final test requested by the officer, the person shall again be informed of his right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested. He shall then be asked "Do you want such a test?" The officer shall make reasonable efforts to provide transportation to the tests.

Section 2. KRS 189A.104 is amended to read as follows:

(1) The only alcohol or substance testing that is subject to refusal or enhancement of penalties provided for in this chapter is:

(a) Breath analysis testing by a machine***, other than a preliminary breath testing device,*** installed, tested, and maintained by the Commonwealth for that specific purpose~~[at a police station or detention facility]~~;

(b) Blood or urine testing at the request of the officer~~[at a police station, detention facility, or medical facility]~~; or

(c) Combination of tests required in paragraphs (a) or (b) of this subsection.

(2) The results of any breath analysis by an instrument other than one specified in subsection (1) of this section shall be inadmissible in court.

Section 3. KRS 189A.107 is amended to read as follows:

(1) A person who refuses to submit to an alcohol concentration or substance test requested by an officer having reasonable grounds to believe that the person violated KRS 189A.010(1) shall have his driver's license suspended by the court during the pendency of the action under KRS 189A.200 ***but in no event less than six (6) months***.

(2) In the event a defendant is not convicted of a violation of KRS 189A.010(1) in a case in which it is alleged that he refused to take an alcohol concentration or substance test, upon motion of the attorney for the Commonwealth, the court shall conduct a hearing, without a jury, to determine by clear and convincing evidence if the person actually refused the testing. However, the hearing shall not be required if the court has made a previous determination of the issue at a hearing held under KRS 189A.200 and 189A.220. If the court finds that the person did refuse to submit to the testing, the court shall suspend the person's driver's license for a period of time ***either*** within the time range specified that the license would have been suspended upon conviction as set forth in KRS 189A.070(1) ***but in no event less than six (6) months***.

Section 4. KRS 189A.200 is amended to read as follows:

(1) The court shall at the arraignment or as soon as such relevant information becomes available suspend the motor vehicle operator's license and motorcycle operator's license and driving privileges of any person charged with a violation of KRS 189A.010(1) who:

(a) Has refused to take an alcohol concentration or substance test as reflected on the uniform citation form;

(b) Has been convicted of one (1) or more prior offenses as described in KRS 189A.010(5)(e) or has had his operator's license revoked or suspended on one (1) or more occasions for refusing to take an alcohol concentration or substance test, in the five (5) year period immediately preceding his arrest; or

(c) Was involved in an accident that resulted in death or serious physical injury as defined in KRS 500.080 to a person other than the defendant.

(2) Persons whose licenses have been suspended pursuant to this section may file a motion for judicial review of the suspension, and the court shall conduct the review in accordance with this chapter within thirty (30) days after the filing of the motion. The court shall, at the time of the suspension, advise the defendant of his rights to the review.

(3) When the court orders the suspension of a license pursuant to this section, the defendant shall immediately surrender the license to the Circuit Court clerk, and the court shall retain the defendant in court or remand him into the custody of the sheriff until the license is produced and surrendered. If the defendant has lost his operator's license, other than due to a previous suspension or revocation, which is still in effect, the sheriff shall take him to the office of the circuit clerk so that a new license can be issued. If the license is currently under suspension or revocation, the provisions of this subsection shall not apply.

(4) The Circuit Court Clerk shall forthwith transmit to the Transportation Cabinet any license surrendered to him pursuant to this section.

(5) Licenses suspended under this section shall remain suspended until a judgment of conviction or acquittal is entered in the case or until the court enters an order terminating the suspension, but in no event for a period ***less than six (6) months nor*** longer than the maximum license suspension period applicable to the person under KRS 189A.070 and 189A.107.

(6) Any person whose operator's license has been suspended pursuant to this section shall be given credit for all pretrial suspension time against the period of revocation imposed. Licenses suspended under this section shall remain suspended until a judgment of conviction or acquittal is entered in the case or until the court enters an order terminating the suspension, but in no event for a period ***less than six (6) months nor*** longer than the maximum license suspension period applicable to the person under KRS 189A.070 and 189A.107.

Section 5. Whereas delayed implementation of the provisions of this Act would needlessly deprive the people of Commonwealth of the protections contained in this Act and continued exposure during the delay constitutes an unreasonable risk to the lives and property of the citizenry of the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Amendment No. 1 Title to **HB 100** is as follows:

By amending the title to read as follows: AN ACT relating to crimes and punishments and declaring an emergency.

HB 627, AN ACT relating to criminal justice records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) In creating uniform offense report numbers and categories the Kentucky State Police shall not create a report number or reporting category that is not specifically supported by the provisions of a Kentucky Revised Statute.

(2) Any uniform offense report number or category not meeting the requirements of this section shall be eliminated as of the effective date of this Act and no report using a number or category in violation of this section shall be transmitted to any local, state, or federal agency.

(3) The provisions of this section shall also apply to any reporting system utilized by the Kentucky State Police or other state or local agency which is utilized in lieu of or addition to the uniform offense report.

SECTION 2. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

(1) Neither the Administrative Office of the Courts nor any circuit clerk or deputy clerk shall utilize, enter, report, record, or transmit to another state, local, or federal agency any document containing a uniform offense report code or reporting category which is in violation of Section 1 of this Act.

(2) No circuit clerk or deputy clerk shall make an entry in any court record, report transmitted to the Kentucky State Police, any local agency, or any federal agency which describes an assault or other offense as being one involving domestic violence unless the court in the order of conviction or a supporting document specifies that the defendant has been convicted of an assault or other offense which is an act of domestic violence as defined in KRS 403.720 involving any person specified in KRS 403.720.

(3) Any entry in any record or report made by a circuit clerk or the Administrative Office of the Courts in violation of the provisions of Section 1 or this section shall be null and void and shall be given no legal effect.

The Committee Substitute to **HB 627** is as follows:

HB 627, AN ACT relating to criminal justice records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) The uniform offense report code number and associated descriptive information relating to an arrest, conviction, criminal action, or criminal record shall not be a public record.

(2) When the Department of State Police, a police department, a sheriff's office, or any other law enforcement agency releases information or records relating to an arrest, conviction, criminal action, or criminal record, other than as provided in KRS 61.878, the department, sheriff's office, or other law enforcement agency shall redact the uniform offense report code number and associated descriptive information from the information or record which is released.

(3) This section shall not preclude the release of Kentucky Revised Statute numbers and Kentucky Revised Statutes headnotes relating to any offense and other information relating to the offense not constituting uniform offense code descriptive information which is covered by the elements of the offense charged.

(4) (a) When the Department of State Police discovers an error in a uniform offense report code entry on a uniform

citation, or other record, the department shall correct the record and shall notify the Administrative Office of the Courts and the originating agency of the correction.

(b) When a police department, a sheriff's office, or any other law enforcement agency discovers an error on a uniform citation or other record, the department shall correct the record and shall notify the Department of State Police and the Administrative Office of the Courts of the correction.

SECTION 2. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

(1) The uniform offense report code number and associated descriptive information relating to an arrest, conviction, criminal action, or criminal record shall not be a public record.

(2) When the Administrative Office of the Courts releases information or records relating to an arrest, conviction, criminal action, or criminal record, other than as provided in KRS 61.878, the Administrative Office of the Courts shall redact the uniform offense report code number and associated descriptive information from the record which is released.

(3) This section shall not preclude the release of Kentucky Revised Statutes numbers and Kentucky Revised Statutes headnotes relating to any offense and other information relating to the offense not constituting uniform offense code descriptive information which is covered by the elements of the offense charged.

(4) When the Administrative Office of the Courts discovers an error in a uniform offense report code entry on a uniform citation or other record, the Administrative Office of the Courts shall correct the record and shall notify the Department of State Police and the originating agency of the correction.

SECTION 3. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) The uniform offense report code number and associated descriptive information relating to an arrest, conviction, criminal action, or criminal record shall not be a public record.

(2) When the circuit clerk or clerk of any other court of the Court of Justice releases information or records relating to an arrest, conviction, criminal action, or criminal record, other than as provided in KRS 61.878, the clerk shall redact the uniform offense report code number and associated descriptive information from the information or record which is released.

(3) This section shall not preclude the release of Kentucky Revised Statutes numbers and Kentucky Revised Statutes headnotes relating to any offense and other information relating to the offense not constituting uniform offense code descriptive information which is covered by the elements of the offense charged.

(4) When the circuit clerk or clerk of any other court of the Court of Justice discovers an error in a uniform offense report code number on a uniform citation or other document, the clerk shall correct the error and notify the Administrative Office of the Courts, the Department of State Police, and the originating agency of the correction.

HB 628, AN ACT relating to Commonwealth's attorneys and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. (1)The Honorable C. Clay Hundley, Jr., of Monroe County, Kentucky, elected to serve as Commonwealth's attorney for the Twenty-ninth Judicial Circuit, shall be, for the remainder of the term for which he was elected, Commonwealth's attorney for the Fortieth Judicial Circuit.

(2) The Honorable Larry E. Rogers, of Wayne County, Kentucky, elected to serve as Commonwealth's attorney for the Fortieth Judicial Circuit, shall be, for the remainder of the term for which he was elected, Commonwealth's attorney for the Fifty-seventh Judicial Circuit.

(3) A vacancy shall exist in the office of Commonwealth's attorney for the Twenty-ninth Judicial Circuit, until it is filled by gubernatorial appointment or election, whichever occurs first.

Section 2. Whereas KRS 23A.020, as amended by 2001 Ky. Acts ch. 72, sec. 1, changes the composition of the Twenty-ninth and Fortieth Judicial Circuits and creates the Fifty-seventh Judicial Circuit, an emergency is declared to exist, and this Act takes effect April 1, 2002. If this Act is passed and approved by the Governor or otherwise becomes a law after April 1, 2002, its provisions are retroactive to April 1, 2002.

HB 644, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of unlawful possession of a methamphetamine precursor when he or she knowingly and unlawfully possesses a product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, with the intent to use the product as a precursor to methamphetamine or other controlled substance.

(2) (a) Except as provided in paragraph (b) of this subsection, possession of more than twenty-four (24) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, shall constitute prima facie evidence of the intent to use the product as a precursor to methamphetamine or other

controlled substance.

(b) The prima facie evidence referred to in paragraph (a) of this subsection shall not apply to the following persons who lawfully possess a product listed in subsection (1) of this section in the course of legitimate business:

1. A retail distributor of drug products or wholesaler of drug products or its agent;

2. A wholesale drug distributor, or its agent, issued a permit by the Board of Pharmacy;

3. A pharmacist licensed by the Board of Pharmacy;

4. A pharmacy permitted by the Board of Pharmacy;

5. A licensed health care professional possessing the drug products in the course of carrying out his or her profession;

6. A trained chemist working in a properly equipped research laboratory in an education, government, or corporate setting; or

7. A common carrier under contract with any of the persons or entities set out in subparagraphs 1. to 6. of this paragraph.

(3) Unlawful possession of a methamphetamine precursor is a Class D felony for the first offense and a Class C felony for each subsequent offense.

SECTION 2. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of unlawful distribution of a methamphetamine precursor when he or she knowingly and unlawfully sells, transfers, distributes, dispenses, or possesses with the intent to sell, transfer, distribute, or dispense any product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or any of their salts, isomers, or salts of isomers, if the person knows that the purchaser intends that the product will be used as a precursor to methamphetamine or other controlled substance, or if the person sells, transfers, distributes, or dispenses the product with reckless disregard as to how the product will be used.

(2) Unlawful distribution of a methamphetamine precursor is a Class D felony for the first offense and a Class C felony for each subsequent offense.

Section 3. KRS 218A.1432 is amended to read as follows:

(1) A person is guilty of manufacturing methamphetamine when he knowingly and unlawfully:

(a) Manufactures methamphetamine; or

(b) Possesses the chemicals or equipment for the manufacture of methamphetamine with the intent to manufacture methamphetamine.

(2) Manufacture of methamphetamine is a Class B felony for the first offense and a Class A felony for a second or subsequent offense. ***However, if the first offense is committed in the presence of a minor, the Class B felony shall be raised to a Class A felony. "In the presence of a minor" means in the same structure as, in the same vehicle as, or within one hundred (100) feet of a person under eighteen (18) years of age, unless the offender is also a minor.***

Section 4. KRS 250.991 is amended to read as follows:

(1) Except as provided in KRS 250.489 or 250.4892, any person who violates any provision of KRS 250.482 to 250.488 shall be fined not more than five hundred dollars ($500).

(2) ***Except as provided in subsection (4) of this section,*** any person who knowingly possesses anhydrous ammonia in a container other than an approved container in violation of KRS 250.489 is guilty of a Class D felony unless it is proven that the person violated KRS 250.489 with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a Class B felony for the first offense and a Class A felony for each subsequent offense.

(3) ***Except as provided in subsection (4) of this section,*** a violation of KRS 250.4892 is a Class D felony unless it is proven that the person violated KRS 250.4892 with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a Class B felony for the first offense and a Class A felony for each subsequent offense.

(4) The Class D felonies provided for in subsections (2) and (3) of this section shall be raised to Class C felonies if they are committed in the presence of a minor. The Class B felonies provided for in subsections (2) and (3) of this section shall be raised to Class A felonies if they are committed in the presence of a minor. "In the presence of a minor" means in the same structure as, in the same vehicle as, or within one hundred (100) feet of a person under eighteen (18) years of age, unless the offender is also a minor.

Section 5. KRS 514.030 is amended to read as follows:

(1) Except as otherwise provided in KRS 217.181 or 218A.1418, a person is guilty of theft by unlawful taking or disposition when he unlawfully:

(a) Takes or exercises control over movable property of another with intent to deprive him thereof; or

(b) Obtains immovable property of another or any interest therein with intent to benefit himself or another not entitled thereto.

(2) Theft by unlawful taking or disposition is a Class A misdemeanor unless the value of the property is three hundred dollars

($300) or more, in which case it is a Class D felony; or unless:

(a) The property is a firearm (regardless of the value of the firearm), in which case it is a Class D felony; or

(b) *1. Except as provided in subparagraph 2. of this paragraph,* the property is anhydrous ammonia (regardless of the value of the ammonia), in which case it is a Class D felony unless it is proven that the person violated this section with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a Class B felony for the first offense and a Class A felony for each subsequent offense.

2. The Class D felony provided for in subparagraph 1. of this paragraph shall be raised to a Class C felony if it is committed in the presence of a minor. The Class B felony provided for in subparagraph 1. of this paragraph shall be raised to a Class A felony if it is committed in the presence of a minor. "In the presence of a minor" means in the same structure as, in the same vehicle as, or within one hundred (100) feet of a person under eighteen (18) years of age, unless the offender is also a minor.

The Committee Substitute to **HB 644** is as follows:

HB 644, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of unlawful possession of a methamphetamine precursor when he or she knowingly and unlawfully possesses a drug product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, with the intent to use the product as a precursor to methamphetamine or other controlled substance.

(2) (a) Except as provided in paragraph (b) of this subsection, possession of a drug product containing more than twenty-four (24) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, shall constitute prima facie evidence of the intent to use the drug product as a precursor to methamphetamine or other controlled substance.

(b) The prima facie evidence referred to in paragraph (a) of this subsection shall not apply to the following persons who lawfully possess a drug product listed in subsection (1) of this section in the course of legitimate business:

1. A retail distributor of drug products or wholesaler of drug products or its agent;

2. A wholesale drug distributor, or its agent, issued a permit by the Board of Pharmacy;

3. A pharmacist licensed by the Board of Pharmacy;

4. A pharmacy permitted by the Board of Pharmacy;

5. A licensed health care professional possessing the drug products in the course of carrying out his or her profession;

6. A trained chemist working in a properly equipped research laboratory in an education, government, or corporate setting; or

7. A common carrier under contract with any of the persons or entities set out in subparagraphs 1. to 6. of this paragraph.

(3) Unlawful possession of a methamphetamine precursor is a Class D felony for the first offense and a Class C felony for each subsequent offense.

SECTION 2. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of unlawful distribution of a methamphetamine precursor when he or she knowingly and unlawfully sells, transfers, distributes, dispenses, or possesses with the intent to sell, transfer, distribute, or dispense any drug product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or any of their salts, isomers, or salts of isomers, if the person knows that the purchaser intends that the drug product will be used as a precursor to methamphetamine or other controlled substance, or if the person sells, transfers, distributes, or dispenses the drug product with reckless disregard as to how the drug product will be used.

(2) Unlawful distribution of a methamphetamine precursor is a Class D felony for the first offense and a Class C felony for each subsequent offense.

SB 26, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 509.040 is amended to read as follows:

(1) A person is guilty of kidnapping when he unlawfully restrains another person and when his intent is:

(a) To hold him for ransom or reward; or

(b) To accomplish or to advance the commission of a felony; or

(c) To inflict bodily injury or to terrorize the victim or another; or

(d) To interfere with the performance of a governmental or political function; or

(e) To use him as a shield or hostage***; or***

(f) To deprive the parents or guardian of the custody of a minor, when the minor is not a relative of the person unlawfully restraining the minor.

(2) Kidnapping is a Class B felony when the victim is released alive and in a safe place prior to trial, except as provided in this section. Kidnapping is a Class A felony when the victim is released alive but the victim has suffered serious physical injury during the kidnapping, or as a result of not being released in a safe place, or as a result of being released in any circumstances which are intended, known or should have been known to cause or lead to serious physical injury. Kidnapping is a capital offense when the victim is not released alive or when the victim is released alive but subsequently dies as a result of:

(a) Serious physical injuries suffered during the kidnapping; or

(b) Not being released in a safe place; or

(c) Being released in any circumstances which are intended, known or should have been known to cause or lead to the victim's death.

Section 2. KRS 439.3401 is amended to read as follows:

(1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim or serious physical injury to a victim, or rape in the first degree or sodomy in the first degree of the victim***, or robbery in the first degree***. The court shall designate in its judgment if the victim suffered death or serious physical injury.

(2) A violent offender who has been convicted of a capital offense and who has received a life sentence (and has not been sentenced to twenty-five (25) years without parole or imprisonment for life without benefit of probation or parole), or a Class A felony and receives a life sentence, or to death and his sentence is commuted to a life sentence shall not be released on probation or parole until he has served at least twenty (20) years in the penitentiary. Violent offenders may have a greater minimum parole eligibility date than other offenders who receive longer sentences, including a sentence of life imprisonment.

(3) A violent offender who has been convicted of a capital offense or Class A felony with a sentence of a term of years or Class B felony who is a violent offender shall not be released on probation or parole until he has served at least eighty-five percent (85%) of the sentence imposed.

(4) A violent offender may not be awarded any credit on his sentence authorized by KRS 197.045(1), except the educational credit. A violent offender may, at the discretion of the commissioner, receive credit on his sentence authorized by KRS 197.045(3). In no event shall a violent offender be given credit on his sentence if the credit reduces the term of imprisonment to less than eighty-five percent (85%) of the sentence.

(5) This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.

(6) This section shall apply only to those persons who commit offenses after July 15, 1998.

(7) For offenses committed prior to July 15, 1998, the version of this statute in effect immediately prior to that date shall continue to apply.

The House Committee Substitute to **SB 26** is as follows:

SB 26, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 509.040 is amended to read as follows:

(1) A person is guilty of kidnapping when he unlawfully restrains another person and when his intent is:

(a) To hold him for ransom or reward; or

(b) To accomplish or to advance the commission of a felony; or

(c) To inflict bodily injury or to terrorize the victim or another; or

(d) To interfere with the performance of a governmental or political function; or

(e) To use him as a shield or hostage***; or***

(f) To deprive the parents or guardian of the custody of a minor, when the person taking the minor is not a person exercising custodial control or supervision of the minor as the term "person exercising custodial control or supervision" is defined in KRS 600.020.

(2) Kidnapping is a Class B felony when the victim is released alive and in a safe place prior to trial, except as provided in this section. Kidnapping is a Class A felony when the victim is released alive but the victim has suffered serious physical injury during the kidnapping, or as a result of not being released in a safe place, or as a result of being released in any circumstances which are intended, known or should have been known to cause or lead to serious physical injury. Kidnapping is a capital offense when the victim is not released alive or when the victim is released alive but subsequently dies as a result of:

(a) Serious physical injuries suffered during the kidnapping; or

(b) Not being released in a safe place; or

(c) Being released in any circumstances which are intended, known or should have been known to cause or lead to the victim's death.

Section 2. KRS 439.3401 is amended to read as follows:

(1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim or serious physical injury to a victim, or rape in the first degree or sodomy in the first degree of the victim*, or robbery in the first degree*. The court shall designate in its judgment if the victim suffered death or serious physical injury.

(2) A violent offender who has been convicted of a capital offense and who has received a life sentence (and has not been sentenced to twenty-five (25) years without parole or imprisonment for life without benefit of probation or parole), or a Class A felony and receives a life sentence, or to death and his sentence is commuted to a life sentence shall not be released on probation or parole until he has served at least twenty (20) years in the penitentiary. Violent offenders may have a greater minimum parole eligibility date than other offenders who receive longer sentences, including a sentence of life imprisonment.

(3) A violent offender who has been convicted of a capital offense or Class A felony with a sentence of a term of years or Class B felony who is a violent offender shall not be released on probation or parole until he has served at least eighty-five percent (85%) of the sentence imposed.

(4) A violent offender may not be awarded any credit on his sentence authorized by KRS 197.045(1), except the educational credit. A violent offender may, at the discretion of the commissioner, receive credit on his sentence authorized by KRS 197.045(3). In no event shall a violent offender be given credit on his sentence if the credit reduces the term of imprisonment to less than eighty-five percent (85%) of the sentence.

(5) This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.

(6) This section shall apply only to those persons who commit offenses after July 15, 1998.

(7) For offenses committed prior to July 15, 1998, the version of this statute in effect immediately prior to that date shall continue to apply.

(8) The provisions of subsection (1) of this section extending the definition of "violent offender" to persons convicted of or pleading guilty to robbery in the first degree shall apply only to persons whose crime was committed after the effective date of this Act.

SB 70, AN ACT relating to presumption of death.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 422 IS CREATED TO READ AS FOLLOWS:

(1) A resident or nonresident of this Commonwealth who is exposed to a specific event which has been declared a disaster or emergency pursuant to KRS Chapter 39A and which is certified by the Governor as a catastrophic event that has resulted in the loss of life to persons known or unknown and whose absence following that event is not satisfactorily explained after diligent search or inquiry is presumed to be dead. The death is presumed to have occurred at the time of the catastrophic event.

(2) A District Court may declare the absent person dead, if it is satisfied that the absentee should be presumed dead under the provisions of subsection (1) of this section. A declaration with respect to a nonresident shall affect only property located within the Commonwealth.

(3) At the request of an applicant who has obtained a declaration based upon subsection (1) of this section, the court shall order the registrar of vital statistics to issue, at no cost to the applicant, a death certificate. The state registrar may indicate on the certificate that it was issued to court order in accordance with this section.

(4) The Attorney General may initiate or intervene in any proceedings or action brought pursuant to this section, including a class action law suit, on behalf of the citizens of the Commonwealth to seek a declaration of death of an absentee under subsection (1) of this section.

Section 2. KRS 393.050 is amended to read as follows:

Except as provided in Section 1 of this Act, when a person owning any property having a situs in this state is not known to be living for seven (7) successive years, and neither he nor his heirs, devisees, or distributees can be located or proved to have been living for seven (7) successive years, he shall be presumed to have died without heirs, devisees, or distributees, and his property shall be liquidated and the proceeds, less costs incident to the liquidation and any legal proceedings, and the liabilities which have been properly claimed and approved against it, shall be paid to the department.

Section 3. KRS 422.130 is amended to read as follows:

Except as provided in Section 1 of this Act, if any person who has resided in this state goes from and does not return to this state for seven (7) successive years, he shall be presumed to be dead, in any case wherein his death comes in question, unless proof is made that he was alive within that time.

Motions, Petitions, and Communications (Continued)

Representative Crimm moved to withdraw Floor Amendment No. 1 to **HB 605**. Agreed.

Representative McKee moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative McKee moved that he be recorded as voting "yea" on **HB 104**. Agreed.

Representative Horlander moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Horlander moved that he be recorded as voting "yea" on **HB 200, HB 189, HB 190, HB 198, HB 436, HB 473, HB 671, HB 52, HB 53, HB 54, HB 55**(votes recorded on HB 53, HB 54, and HB 55 prior to bill being reported out of committee; bills never placed before the house for passage), **HB 57, HB 58, HCR 59,** and **HCR 109**. Agreed.

Representative Scott moved to suspend the rules to act on a resolution.

Representative Scott moved the adoption of the following **HR 131**:

HR 131, A RESOLUTION recognizing the Commonwealth's forest products industry and commending the adoption of the Sustainable Forestry Initiative Program.

WHEREAS, Kentucky takes great pride in its rich bounty of natural resources and the careful stewardship of those precious assets is essential if future generations are to benefit from those resources; and

WHEREAS, Kentucky forest products industry, in recognition of its stewardship responsibilities in nurturing the forest resource, has committed itself to the principle of sustainable forestry by initiating the Sustainable Forestry Initiative Program to promote, educate, train, and monitor adherence to sustaining the forest resource for future generations; and

WHEREAS, the Sustainable Forestry Initiative is a national program based on responsible environmental stewardship of the forests, water resources, and wildlife; and

WHEREAS, an essential component of the Kentucky economy, the forest products industry comprises more than a $4.5 billion economic impact annually; and

WHEREAS, the vital importance of the industry underscores the necessity for intelligent and scientific management of the state's more that 12.7 million acres of forest land.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The state's forest products industry is recognized and commended for its commitment to responsible use of natural resources and the adoption of the Sustainable Forestry Initiative as a means to that end.

Section 2. The Clerk of the House of Representatives is authorized and directed to transmit an appropriate copy of this resolution to the public and the press.

There being no objection **HR 131** was adopted.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **SB 45**, by Representative Stumbo:

On Page 5, after Line 5 by inserting the following new section:

"Section 2. Whereas, no appropriation is required to change the income limits for Kentucky Housing Corporation loans and Kentucky Housing Corporation has loan funds available to immediately begin serving the additional households affected by the income limit change, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor or upon its otherwise becoming law."

Floor Amendment No. 2 Title to **SB 45**, by Representative Stumbo:

Amend the title to read as follows: "AN ACT relating to the Kentucky Housing Corporation and declaring an emergency."

Floor Amendment No. 3 to the Committee Substitute to **HB 540**, by Representative Yonts:

On page 6, line 19, after "*ordinances*" by inserting a "*. The applicant shall not be required to obtain planning and zoning approval subsequent to an action by the board if the applicant obtained approval from a local planning and zoning commission, indicating compliance with local planning and zoning ordinances, prior to submitting an application to the board. The applicant shall not be required to obtain approval from a county fiscal court subsequent to an action of the board if the applicant obtained approval prior to submitting an application to the board*".

Floor Amendment No. 1 to **HB 517**, by Representative McKee:

On page 7, by deleting line 25 and inserting in lieu thereof:

"Section 2. Whereas items used in the pursuit of cervid farming are currently exempt from sales and use tax in the 2000 executive branch budget bill and that bill expires on June 30, 2002, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Section 3. This Act applies to sales made on or after July 1, 2002.".

Floor Amendment No. 2 Title to **HB 517**, by Representative McKee:

Amend the title to read as follows: "AN ACT relating to sales and use tax exemption for cervid farmers and declaring an emergency.".

Floor Amendment No. 2 to the Committee Substitute to **HB 166**, by Representative Riner:

On page 2, line 3, after the word "*counties*" insert: "*or legislative districts of the House of Representatives within cities of the first class or urban-counties and consolidated local governments*"; and delete "*countywide*" and

On page 3, line 25, after the word "*Kentucky*" insert: "*or a legislative district of the House of Representatives within a city of the first class or an urban-county and consolidated local government*"; and delete "*countywide*";

On page 5, line 21, after the word "*Kentucky*" insert: "*or a legislative district of the House of Representatives within a city of the first class or an urban-county and consolidated local government*", and delete "*countywide*";

On page 7, line 21, after the word "*Kentucky*" insert: "*or legislative districts of the House of Representatives within cities of the first class or urban-counties and consolidated local governments*", and delete "*countywide*".

Floor Amendment No. 6 to the Committee Substitute to **HB 481**, by Representative Damron:

On page 67, after line 16, by inserting:

"SECTION 62. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Rates and premiums for an automobile insurance policy, as described in KRS 304.20-040(1)(a), shall be determined by application of the following factors in decreasing order of importance with the factor in paragraph (a) of this subsection given the most weight:

(a) The insured's driving safety record;

(b) The number of miles he or she drives annually;

(c) The number of years of driving experience the insured has had; and

(d) Such other factors as the commissioner may adopt by administrative regulation that have a substantial relationship to the risk of loss. The administrative regulations shall set forth the respective weight to be given each factor in determining automobile rates and premiums and each factor shall be given less weight than the factors in paragraphs (a), (b), and (c) of this subsection. Notwithstanding any other provision of law, the use of any criterion without such approval shall constitute unfair discrimination.

(2) Rates and premiums shall be determined in accordance with this section in both competitive and noncompetitive markets in Kentucky."; and

On page 67, line 17, by deleting "62" and inserting in lieu thereof "63".

Floor Amendment No. 4 to the Committee Substitute to **HB 540**, by Representative Lindsay:

On page 1, line 12, by deleting "*municipality,*"; and

On page 1, line 13, after "*entity*" by inserting "*, and no portion of Sections 1 to 8, 9, 10, 11, 12, 13, or 14 of this Act shall apply to a utility owned by a municipality*"; and

On page 13, line 9, following "*thereof*" by inserting "*, except for a utility owned by a municipality,*".

Floor Amendment No. 21 to the Committee Substitute to **HB 369**, by Representative Cherry:

On page 8, by deleting lines 6 through 11 in their entirety and inserting in lieu thereof the following:

"*(b) A health insurer shall not discriminate against any retail pharmacy located within the geographic coverage area of the health benefit plan and that meets the terms and conditions for participation established by the insurer, including price, dispensing fee, and copay requirements of a mail order option. The retail pharmacy shall not be required to dispense by mail.*"

Floor Amendment No. 22 to the Committee Substitute to **HB 369**, by Representative Marizan:

On page 8, by deleting lines 14 through 24 in their entirety.

Floor Amendment No. 2 to **HB 617**, by Representative Damron:

On page 31, line 21, after "*chapter*" by inserting "*by subsection (11) of Section 4 of this Act*";

On page 34, by deleting all text from line 7 through page 55, line 3, and inserting in lieu thereof the following:

"*As used in Sections 23 to 34 of this Act:*

(1) "Board" means the Kentucky Board of Medical Licensure;

(2) "Physician assistant" means a person who:

(a) Has graduated from a physician assistant or surgeon assistant program accredited by the Accreditation Review Commission on Education for Physician Assistants or its predecessor or successor agencies and has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or its predecessor or successor agencies; or

(b) Possesses a current physician assistant certificate issued by the board prior to the effective date of this Act;

(3) "Supervising physician" means a physician licensed by the board who supervises one (1) or more physician assistants;

(4) "Supervising physician in anesthesia" means a physician licensed by the board who has completed postgraduate training in anesthesiology at an anesthesiology program accredited by the Accreditation Council for Graduate Medical Education or its equivalent; and

(5) "Supervision" means overseeing the activities of and accepting of responsibility for the medical services rendered by a physician assistant. Each team of physicians and physician assistants shall ensure that the delegation of medical tasks is appropriate to the physician assistant's level of training and experience, that the identifications of and access to the supervising physician are clearly defined, and that a process for evaluation of the physician assistant's performance is established.

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A relating to the certification and regulation, including temporary certification, of physician assistants.

(2) The board shall establish a nine (9) member Physician Assistant Advisory Committee that shall review and make recommendations to the board regarding all matters relating to physician assistants that come before the board,

including but not limited to:

(a) Applications for physician assistant certification;

(b) Certification renewal requirements;

(c) Approval of supervising physicians;

(d) Disciplinary actions; and

(e) Promulgation and revision of administrative regulations.

(3) Members of the Physician Assistant Advisory Committee shall be appointed by the board for four (4) year terms and shall consist of:

(a) Five (5) practicing physician assistants;

(b) Two (2) supervising physicians;

(c) One (1) member of the board; and

(d) One (1) citizen at large.

(4) The chairperson of the committee shall be elected by a majority vote of the committee members and shall be responsible for presiding over meetings that shall be held on a regular basis.

(5) Members shall receive reimbursement for expenditures relating to attendance at committee meetings consistent with state policies for reimbursement of travel expenses for state employees.

(6) Nothing in this chapter shall be construed to require certification of a physician assistant student enrolled in a physician assistant or surgeon assistant program accredited by the Accreditation Review Commission on Education for Physician Assistants or its successor agencies or of a physician assistant employed in the service of the federal government while performing duties relating to that employment.

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) To be certified by the board as a physician assistant, an applicant shall:

(a) Submit a completed application form with the required fee;

(b) Be of good character and reputation;

(c) Be a graduate of an approved program; and

(d) Have passed an examination approved by the board within three (3) attempts.

(2) A physician assistant who is authorized to practice in another state and who is in good standing may apply for certification by endorsement from the state of his or her credentialing if that state has standards substantially equivalent to those of this Commonwealth.

(3) A physician assistant's certification shall be renewed upon fulfillment of the following requirements:

(a) The holder shall be of good character and reputation;

(b) The holder shall provide evidence of completion during the previous two (2) years of a minimum of one hundred (100) hours of continuing education approved by the American Medical Association, the American Osteopathic Association, the American Academy of Family Physicians, the American Academy of Physician Assistants, or by another entity approved by the board;

(c) The holder shall provide evidence of completion of a continuing education course on the human immunodeficiency virus and acquired immunodeficiency syndrome in the previous ten (10) years that meets the requirements of KRS 214.610; and

(d) The holder shall provide proof of current certification with the National Commission on Certification of Physician Assistants.

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The examination of the National Commission on Certification of Physician Assistants for certification as a physician assistant shall be approved by the board.

(2) Educational and training programs approved by the board shall include physician assistant programs that are accredited by the Accreditation Review Commission on Education for Physician Assistants or its predecessor or successor agencies.

(3) Training programs for the provision of general or regional anesthesia shall be accredited by the Commission on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs.

(4) A trainee enrolled in an approved program shall be supervised and the training program shall be responsible for the services provided by the trainee. A trainee shall have the same scope of practice as a physician assistant and shall not be considered to be practicing without authorization while enrolled in a training program.

SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "medical emergency" means a real and substantial threat to public health or the health of an individual as determined by the executive director of the board that requires additional professional resources.

(2) In a medical emergency, the board may approve an additional physician assistant for a supervising physician practicing in this Commonwealth for a period not to exceed thirty (30) days who:

(a) Submits satisfactorily completed forms to the board; and

(b) Is credentialed and in good standing in this Commonwealth.

(3) In a medical emergency, the board may issue an emergency permit to a physician assistant who:

(a) Is credentialed and in good standing in another state or Canadian province;

(b) Submits satisfactorily completed forms to the board; and

(c) Based on verifiable information, meets the requirements for regular certification under Section 25 of this Act.

(4) An emergency permit:

(a) Shall be valid for a period of time not to exceed thirty (30) days;

(b) Shall not be renewed or reissued and shall be immediately canceled if a medical emergency no longer exists;

(c) May be canceled by the executive director upon reasonable cause without a prior hearing; and

(d) Shall not authorize a physician assistant to practice beyond a specified geographical area, beyond the scope of practice encompassed by the medical emergency, or without the supervision of a supervising physician.

SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

The board may revoke, suspend, deny, decline to renew, limit, or restrict the certification of a physician assistant, or may reprimand or place a physician assistant on probation for no more than five (5) years if the board determines, after giving notice and providing an opportunity for a hearing pursuant to KRS Chapter 13B, that a physician assistant has:

(1) Knowingly made or presented or caused to be made or presented any false, fraudulent, or forged statement, writing, certificate, diploma, or other document relating to an application for certification;

(2) Practiced, aided, or abetted in the practice of fraud, forgery, deception, collusion, or conspiracy relating to an examination for certification;

(3) Been convicted by any court of a misdemeanor offense involving moral turpitude or been convicted of an act that is or would be a felony under the laws of the Commonwealth of Kentucky or of the United States;

(4) Become addicted to or is an abuser of alcohol, drugs, or any illegal substance;

(5) Developed a physical or mental disability or other condition that presents a danger in continuing to practice medicine to patients, the public, or other health care personnel;

(6) Knowingly made or caused to be made or aided or abetted in the making of a false statement in any document executed in connection with the practice of medicine or osteopathy;

(7) Performed any act or service as a physician assistant without a designated supervising physician;

(8) Exceeded the scope of medical services described by the supervising physician in the applications required under Section 30 of this Act;

(9) Exceeded the scope of practice for which the physician assistant was credentialed by the governing board of a hospital or licensed health care facility under Sections 31 and 32 of this Act;

(10) Aided, assisted, or abetted the unlawful practice of medicine or osteopathy or any healing art including the unlawful practice of physician assistants;

(11) Willfully violated a confidential communication;

(12) Performed the services of a physician assistant in an unprofessional, incompetent, or grossly or chronically negligent manner;

(13) Been removed, suspended, expelled, or placed on probation by any health care facility or professional society for unprofessional conduct, incompetence, negligence, or violation of any provision of this section or Section 32 or 34 of this Act;

(14) Violated any applicable provision of administrative regulations relating to physician assistant practice;

(15) Violated any term of probation or other discipline imposed by the board; or

(16) Failed to complete the required number of hours of approved continuing education.

SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) At any time when an inquiry panel has probable cause to believe that a physician assistant has violated the terms of an agreed order or violated the terms of a disciplinary order, or that a physician assistant's practice constitutes a danger to the health, welfare, or safety of his or her patients or the general public, the inquiry panel may issue an emergency order in accordance with KRS 13B.125 suspending, limiting, or restricting the physician assistant's certification.

(2) For the purposes of a hearing conducted under KRS 13B.125 on an emergency order issued under this section, the findings of fact in the emergency order shall constitute a rebuttable presumption of substantial evidence of a violation of law that constitutes immediate danger to the health, welfare, or safety of patients or the general public. For the purposes of this hearing only, hearsay shall be admissible and may serve as a basis of the board's findings.

(3) An emergency order as described in subsection (1) of this section shall not be issued unless grounds exist for the issuance of a complaint. The inquiry panel shall issue a complaint prior to the date of the emergency hearing or the emergency order shall become void.

(4) An order of temporary suspension, restriction, or limitation shall not be maintained after a final order is served on the charged physician assistant pursuant to the proceeding on the complaint. An appeal of an emergency order shall not prejudice the board from proceeding with the complaint.

SECTION 30. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A physician shall not supervise a physician assistant without approval of the board. Failure to obtain board approval as a supervising physician or failure to comply with the requirements of Sections 23 to 34 of this Act or related administrative regulations shall be considered unprofessional conduct and shall be subject to disciplinary action by the board that may include revocation, suspension, restriction, or placing on probation the supervising physician's right to supervise a physician assistant.

(2) To be approved by the board as a supervising physician, a physician shall:

(a) Be currently licensed and in good standing with the board;

(b) Maintain a practice primarily within this Commonwealth. The board in its discretion may modify or waive this requirement;

(c) Submit a completed application and the required fee to the board. The application shall include but is not limited to:

1. A description of the nature of the physician's practice;

2. A statement of assurance by the supervising physician that the scope of medical services and procedures described in the application or in any supplemental information shall not exceed the normal scope of practice of the supervising physician;

3. A description of the means by which the physician shall maintain communication with the physician assistant when they are not in the same physical location;

4. The name, address, and area of practice of one (1) or more physicians who agree in writing to accept responsibility for supervising the physician assistant in the absence of the supervising physician; and

5. A description of the scope of medical services and procedures to be performed by the physician assistant for which the physician assistant has been trained in an approved program; and

(d) Prior to a physician assistant performing any service or procedure beyond those described in the initial application submitted to the board under subsection (2)(c) of this section, supplement that application with information that includes but is not limited to:

1. A description of the additional service or procedure;

2. A description of the physician assistant's education, training, experience, and institutional credentialing;

3. A description of the level of supervision to be provided for the additional service or procedure; and

4. The location or locations where the additional service or procedure will be provided.

(3) A physician who has been supervising a physician assistant prior to the effective date of this Act may continue supervision and a physician assistant may continue to perform medical services and procedures. The supervising physician shall submit the application as required in this section by October 15, 2002.

(4) A physician may enter into supervision agreements with a maximum of four (4) physician assistants but shall not supervise more than two (2) physician assistants at any one (1) time. Application for board approval to be a supervising physician shall be obtained individually for each physician assistant.

(5) The board may impose restrictions on the scope of practice of a physician assistant or on the methods of supervision by the supervising physician upon consideration of recommendations of the Physician Assistant Advisory Committee established in Section 24 of this Act after providing the applicant with reasonable notice of its intended action and after providing a reasonable opportunity to be heard.

SECTION 31. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

A supervising physician shall:

(1) Restrict the services of a physician assistant to services within the physician assistant's scope of practice and to the provisions of Sections 32 to 34 of this Act;

(2) Prohibit a physician assistant from prescribing or dispensing controlled substances;

(3) Inform all patients in contact with a physician assistant of the status of the physician assistant;

(4) Post a notice stating that a physician assistant practices medicine or osteopathy in all locations where the physician assistant may practice;

(5) Require a physician assistant to wear identification that clearly states that he or she is a physician assistant;

(6) Prohibit a physician assistant from independently billing any patient or other payor for services rendered by the physician assistant;

(7) If necessary, participate with the governing body of any hospital or other licensed health care facility in a credentialing process established by the facility;

(8) Not require a physician assistant to perform services or other acts that the physician assistant feels incapable of carrying out safely and properly;

(9) Maintain adequate, active, and continuous supervision of a physician assistant's activities to assure that the physician assistant is performing as directed and complying with the requirements of Sections 23 to 34 of this Act and all related administrative regulations;

(10) Sign all records of service rendered by a physician assistant in a timely manner as certification that the physician assistant performed the services as delegated;

(11) (a) Reevaluate the reliability, accountability, and professional knowledge of a physician assistant two (2) years after the physician assistant's original certification in this Commonwealth and every two (2) years thereafter; and

(b) Based on the reevaluation, recommend approval or disapproval of certification or recertification to the board; and

(12) Notify the board within three (3) business days if the supervising physician:

(a) Ceases to supervise or employ the physician assistant; or

(b) Believes in good faith that a physician assistant violated any disciplinary rule of Sections 23 to 34 of this Act or related administrative regulations.

SECTION 32. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A physician assistant may perform medical services and procedures within the scope of medical services and procedures described in the initial or supplemental application received by the board under Section 30 of this Act.

(2) A physician assistant shall be considered an agent of the supervising physician in performing medical services and procedures described in the initial or supplemental application received by the board under Section 30 of this Act.

(3) A physician assistant may initiate evaluation and treatment in emergency situations without specific approval.

(4) A physician assistant may prescribe and administer all nonscheduled legend drugs and medical devices as delegated by the supervising physician. A physician assistant who is delegated prescribing authority may request, receive, and distribute professional sample drugs to patients.

(5) A physician assistant shall not submit direct billing for medical services and procedures performed by the physician assistant.

(6) A physician assistant may perform local infiltrative anesthesia under the provisions of subsection (1) of this section, but a physician assistant shall not administer or monitor general or regional anesthesia unless the requirements of Section 34 of this Act are met.

(7) A physician assistant may perform services in the offices or clinics of the supervising physician. A physician may also render services in hospitals or other licensed health care facilities only with written permission of the facility's governing body, and the facility may restrict the physician assistant's scope of practice within the facility as deemed appropriate by the facility.

(8) A physician assistant shall not practice medicine or osteopathy independently. Each physician assistant shall practice under supervision as defined in Section 23 of this Act.

SECTION 33. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A supervising physician who uses the services of a physician assistant in an office or clinic separate from the physician's primary office shall submit for board approval a specific written request that describes the services to be provided by the physician assistant in the separate office or clinic, the distance between the primary office and the separate location, and the means and availability of direct communication at all times with the supervising physician.

(2) A physician assistant shall not practice medicine or osteopathy in an office, clinic, or separate location from the supervising physician unless the physician assistant has two (2) continuous years of experience in a non-separate location. The board in its discretion may modify or waive the requirements of this subsection.

(3) Except as provided by Section 34 of this Act, a physician assistant may perform services when the supervising physician is not physically present in the supervising physician's office or clinic when a reliable means of direct communication with the supervising physician is available at all times.

(4) Except as provided by Section 34 of this Act, a physician assistant may perform services when the supervising physician is not physically present in a hospital or other licensed health care facility when a reliable means of direct communication with the supervising physician is available at all times and the hospital or facility has given specific approval for the provision of physician assistant services without the physical presence of the supervising physician.

SECTION 34. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A physician assistant who was practicing as an anesthesiology assistant in Kentucky prior to the effective date of this Act, may continue to practice if the physician assistant:

(a) Met the practice, education, training, and certification requirements specified in Sections 25 and 26 of this Act;

(b) Is a graduate of an approved program accredited by the Commission on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs that is specifically designed to train an individual to administer general or regional anesthesia; and

(c) Is employed by a supervising physician in anesthesia.

(2) A physician assistant who has not practiced as an anesthesiology assistant in Kentucky prior to the effective date of this Act, shall meet the following requirements prior to practicing as an anesthesiology assistant:

(a) Graduation from an approved four (4) year physician assistant program as specified in subsection (1)(b) of this section and graduation from another two (2) year approved and accredited program that consists of academic and clinical training in anesthesiology;

(b) Compliance with the practice, education, training, and certification requirements specified in Sections 25 and 26 of this Act; and

(c) Employment with a supervising physician in anesthesia.

(3) A physician assistant practicing as an anesthesiology assistant shall not administer or monitor general or regional anesthesia unless the supervising physician in anesthesia:

(a) Is physically present in the room during induction and emergence;

(b) Is not concurrently performing any other anesthesiology procedure; and

(c) Is available to provide immediate physical presence in the room.

Section 35. KRS 217.015 is amended to read as follows:

For the purposes of KRS 217.005 to 217.215:

(1) "Advertisement" means all representations, disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;

(2) "Bread" and "enriched bread" mean only the foods commonly known and described as white bread, white rolls, white buns, enriched white bread, enriched rolls, and enriched white buns, as defined under the federal act;

(3) "Cabinet" means the Cabinet for Health Services or its designee;

(4) "Color" means but is not limited to black, white, and intermediate grays;

(5) "Color additive" means a material that:

(a) Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source. Nothing in this paragraph shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest; or

(b) When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with another substance, of imparting color. "Color additive" does not include any material that has been or may in the future be exempted under the federal act;

(6) "Contaminated with filth" means any food, drug, device, or cosmetic that is not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminants;

(7) "Cosmetic" means:

(a) Articles intended to be rubbed, poured, sprinkled, sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and

(b) Articles intended for use as a component of those articles, except that the term shall not include soap;

(8) "Device," except when used in subsection (48) of this section, KRS 217.035(6), KRS 217.065(3), KRS 217.095(3), and KRS 217.175(10), means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended:

(a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

(b) To affect the structure or any function of the body of man or other animals;

(9) "Dispense" means to deliver a drug or device to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;

(10) "Dispenser" means a person who lawfully dispenses a drug or device to or for the use of an ultimate user;

(11) "Drug" means:

(a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;

(12) "Enriched," as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of enriched flour as defined under the federal act;

(13) "Environmental Pesticide Control Act of 1972" means the Federal Environmental Pesticide Control Act of 1972, Pub. L. 92-516, and all amendments thereto;

(14) "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and cosmetics, 15 U.S.C. secs. 1451 et seq., and all amendments thereto;

(15) "Federal act" means the Federal Food, Drug and Cosmetic Act, 21 U.S.C. secs. 301 et seq., 52 Stat. 1040 et seq., or amendments thereto;

(16) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of substances used for flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed. This definition does not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if the compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending, or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;

(17) "Flour" means only the foods commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;

(18) "Food" means:

(a) Articles used for food or drink for man or other animals;

(b) Chewing gum; and

(c) Articles used for components of any such article;

(19) "Food additive" means any substance the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any of these uses, if the substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that the term does not include:

(a) A pesticide chemical in or on a raw agricultural commodity;

(b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity;

(c) A color additive; or

(d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq.; or the Meat Inspection Act of 1907; and amendments thereto;

(20) "Food processing establishment" means any commercial establishment in which food is manufactured, processed, or packaged for human consumption, but does not include retail food establishments;

(21) "Food service establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including, but not limited to: restaurants; coffee shops;

cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; charitable food kitchens; or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It does not include food vending machines, establishments serving beverages only in single service or original containers, or retail food stores which only cut, slice, and prepare cold-cut sandwiches for individual consumption;

(22) "Food storage warehouse" means any establishment in which food is stored for subsequent distribution;

(23) "Immediate container" does not include package liners;

(24) "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent illness or injury based on:

(a) The number of potential illnesses or injuries; or

(b) The nature, severity, and duration of the anticipated illness or injury;

(25) "Interference" means threatening or otherwise preventing the performance of lawful inspections or duties by agents of the cabinet during all reasonable times of operation;

(26) "Label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of the article, or is easily legible through the outside container or wrapper;

(27) "Labeling" means all labels and other written, printed, or graphic matter:

(a) Upon an article or any of its containers or wrappers; or

(b) Accompanying the article;

(28) "Legend drug" means a drug defined by the Federal Food, Drug and Cosmetic Act, as amended, and under which definition its label is required to bear the statement "Caution: Federal law prohibits dispensing without prescription.";

(29) "Meat Inspection Act" means the Federal Meat Inspection Act, 21 U.S.C. secs. 71 et seq., 34 Stat. 1260 et seq., including any amendments thereto;

(30) "New drug" means:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under prescribed conditions, has become so recognized, but which has not, otherwise than in the investigations, been used to a material extent or for a material time under the conditions;

(31) "Official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them;

(32) "Person" means an individual, firm, partnership, company, corporation, trustee, association, or any public or private entity;

(33) "Pesticide chemical" means any substance that alone in chemical combination, or in formulation with one or more other substances, is an "economic poison" within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act and amendments thereto, and that is used in the production, storage, or transportation of raw agricultural commodities;

(34) "Poultry Products Inspection Act" means the Federal Poultry and Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq., Pub. L. 85-172, 71 Stat. 441, and any amendments thereto;

(35) "Practitioner" means medical or osteopathic physicians, dentists, chiropodists, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices. "Practitioner" includes optometrists when administering or prescribing pharmaceutical agents authorized in KRS 320.240(12) to (14), advanced registered nurse practitioners as authorized in KRS 314.011 and 314.042, and physician assistants when administering or prescribing pharmaceutical agents as authorized in ***Section 32 of this Act***[~~KRS 311.560(3) and (4)~~];

(36) "Prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, that is signed, given, or authorized by a medical, dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(37) "Prescription blank" means a document that conforms with KRS 217.216 and is intended for prescribing a drug to an ultimate user;

(38) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;

(39) "Retail food establishment" means any food service establishment, retail food store, or a combination of both within the same establishment;

(40) "Retail food store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but does not include establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, or food processing establishments;

(41) "Salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise trafficking in any salvaged merchandise;

(42) "Salvage processing plant" means an establishment operated by a person engaged in the business of reconditioning, labeling, relabeling, repackaging, recoopering, sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifices, cosmetics, single-service food containers or utensils, containers and packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a similar nature that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means;

(43) "Second or subsequent offense" has the same meaning as it does in KRS 218A.010;

(44) "Secretary" means the secretary of the Cabinet for Health Services;

(45) "Temporary food service establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days;

(46) "Traffic" has the same meaning as it does in KRS 218A.010;

(47) "Ultimate user" has the same meaning as it does in KRS 218A.010;

(48) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts that are material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under the conditions of use as are customary or usual;

(49) The representation of a drug in its labeling or advertisement as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body; and

(50) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of those articles for sale, the sale, dispensing, and giving of those articles, and the supplying or applying of those articles in the conduct of any food, drug, or cosmetic establishment.

Section 36. The following KRS sections are repealed:

311.567 Authority for administrative regulations -- Physician Assistant Advisory Committee.

311.618 Committee's immunity for official acts.".

Floor Amendment No. 5 to the Committee Substitute to **HB 540**, by Representative Gooch:

On page 5, line 1, after the period, by inserting new language as follows:

"***Sections 3, 4 and 13 of this Act shall not apply to any facility eligible for funds under Subchapter 22 of KRS Chapter 154 or under Subchapter 28 of KRS Chapter 154 and whose setbacks are greater than those specified in Sections 3(3) and 4(2)(e) of this Act.***"

Floor Amendment No. 23 to the Committee Substitute to **HB 369**, by Representative Crall:

On page 9, after line 1, by adding:

"*(16) As a condition of having its drug products covered by a health benefit plan authorized under this section, a pharmaceutical manufacturer shall not discriminate in the pricing of its products to pharmacies that have provider agreements with the plan based solely on the pharmacy's class of trade. Nothing in this subsection shall be construed to limit or restrict a pharmaceutical manufacturer's ability to offer discounts for any other reason.*".

Floor Amendment No. 24 to the Committee Substitute to **HB 369**, by Representative Crall:

On page 9, after line 1, by adding:

"*(16) As a condition of having its drug products covered by a health benefit plan authorized under this section, a pharmaceutical manufacturer shall not discriminate in the pricing of its products to pharmacies that have provider agreements with the plan based solely on the pharmacy's class of trade.*".

Floor Amendment No. 1 to **501**, by Representative Ford:

On page 1, by deleting lines 3 through 9, and inserting in lieu thereof:

"*A taxpayer required to file a return in accordance with KRS 141.180 and who desires to contribute to Kentucky Educational Television may:*

(1) Designate an amount, not to exceed three dollars ($3) or the amount of the refund, whichever is less, to be paid to Kentucky Education Television if the taxpayer is entitled to a refund. This designation shall reduce the income tax refund of the taxpayer by the amount designated; or

(2) Designate an amount, not to exceed three dollars ($3), to be paid to Kentucky Education Television if the taxpayer has an income tax liability. This designation is in addition to the income tax liability incurred and shall not decrease the amount of the income tax liability of the taxpayer.".

Floor Amendment No. 2 Title to **HB 501**, by Representative Ford:

Amend title to read as follows: "AN ACT relating to income tax.".

Floor Amendment No. 6 to the Committee Substitute to **HB 540**, by Representative S. Lee:

On Page 1, line 3, by deleting "*8, 11, and 13*" and inserting and underlining in lieu thereof "*7, 10, and 11*"; and

On Page 3, line 20, by deleting "*7,*" and continuing on that line, by deleting "*8*" and inserting and underlining in lieu thereof "*7*"; and

On Page 4, line 18, by deleting "*, 7,*" and continuing on that line, by deleting "*8*" and inserting and underlining in lieu thereof "*7*"; and

On Page 5, line 9, after "*5*" by inserting and underlining "*and*", and continuing on that line, by deleting "*, and 7*"; and

On Page 5, line 18, before the "*6*" by inserting and underlining "*and*", and continuing on that same line, by deleting "*, and 7*"; and

On Page 9, line 23, by deleting "*or 7*"; and

On Page 10, line 19, after "*proposed*", by inserting and underlining, "*merchant*"; and

On Page 11, line 27, by deleting "*, 7,*" and continuing on that line, by deleting "*8*" and inserting and underlining in lieu thereof "*7*"; and

On Page 12, line 6, by deleting "*or 7*"; and

On Page 12, line 7, by deleting "*8*" and inserting and underlining in lieu thereof "*7*"; and

On Page 13, line 1, by deleting "*, 7,*" and continuing on that line, by deleting "*8*" and inserting and underlining in lieu thereof "*7*"; and

On Page 13, starting on line 7 and continuing to Page 14, line 7, by deleting all of Section 7 in its entirety and by renumbering subsequent sections accordingly; and

On Page 16, line 25, before "*plant*" by inserting and underlining "*merchant*"; and

On Page 17, line 2, before "*plant*" by inserting and underlining "*merchant*"; and

On Page 17, line 24, by deleting "*8*" and inserting and underlining in lieu thereof "*7*"; and On Page 17, line 27, by deleting "*8*" and inserting and underlining in lieu thereof "*7*"; and

On Page 18, lines 1 - 12, by deleting Section 12 in its entirety and by renumbering subsequent sections accordingly; and

On Page 18, line 15, by deleting "*an electric generating facility*", and inserting and underlining in lieu thereof "*a merchant plant*"; and

On Page 19, line 9, by deleting "*9, 10, and 12*" and inserting and underlining in lieu thereof "*8 and 9*"; and

On Page 22, line 9, after "utility" and before the comma, by inserting and underlining "*or other person*"; and

On Page 22, lines 23 and 24, by deleting Section 15 in its entirety.

Floor Amendment No. 2 to **HB 576**, by Representative Thomas:

On page 8, line 26, after "relating to", by inserting "***the policies and procedures for licensing and vaccinating dogs,***"; and

On page 16, line 1, after "***shelters***", by inserting "***, which shall become effective two (2) years after the effective date of this Act***"; and

On page 36, after line 11, by inserting the following noncodified language:

"Section 38. (1) The Animal Control Advisory Board created by Section 12 of this Act shall review the rabies certification and dog licensing programs of the state as to their efficiency and effectiveness, including specifically the feasibility of consolidating the rabies certification tag and licensing tag.

(2) The board shall report its findings to the Legislative Research Commission by December 1, 2002.".

Floor Amendment No. 2 to **HB 372**, by Representative Palumbo:

On page 4, line 9, delete "***four hundred and fifty (450)***" and insert in lieu thereof "***three hundred and fifty (350)***".

Floor Amendment No. 1 to **HB 554**, by Representative DeWeese:

On page 1, line 11, after "insurer" by inserting "***on behalf of a guaranteed acceptance plan enrollee for claims that were incurred while the individual was a guaranteed acceptance program plan enrollee***"; and

On page 1, line 12, by placing brackets around and striking through "in a calendar year with respect to program plans"; and

On page 1, by deleting all new material on lines 15, 16, 17.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills:

HB 191, Representative Hall

HB 367, Representative Tapp

HB 407, Representative P. Clark

HB 417, Representative Hall

HB 447, Representative P. Clark

HB 469, Representative Hoffman

HB 483, Representative Richards

HB 496, Representative Kerr

HB 553, Representative Westrom

HB 567, Representative Haydon

HB 584, Representative Haydon

HB 600, Representative Haydon

HB 629, Representative Gray

HB 659, Representatives Crimm, Horlander, and Miller

HB 706, Representative Vincent

HB 714, Representatives A. Arnold, Bratcher, Cherry, Ford, Geveden, and Weaver

HB 715, Representative Miller.

The following member filed a request to have his name withdrawn as co-sponsor of a Bill:

HB 188, Representative Richards

Announcements

The following meetings were announced:

Elections, Constitutional Amendments, and Intergovernmental Affairs: Thursday, February 20, 2002, 10:15 a.m.

Natural Resources and Environment: upon adjournment, Thursday, February 21, 2002, Room 131

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., on Thursday, February 21, 2002.

The motion that the House adjourn until 2:00 p.m., Thursday, February 21, 2002, was adopted by voice vote.

THURSDAY, FEBRUARY 21, 2002

THIRTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Graham and Stewart.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Wednesday, February 20, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announced passage of **SB 100, SB 109, SB 151, HB 33, HB 86, HB 109, HB 143,** and **HB 279**. (Time 2:10 p.m.)

Report On Enrolled Bills

HB 340 was delivered to the Governor on February 21, 2002, at 1:18 p.m.

Motions, Petitions, and Communications

Representative Callahan moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Callahan moved the adoption of the following **Legislative Citation No. 56**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby expresses its collective support for the Kentucky Community and Technical College System and offers its most ardent gratitude for the tremendous hard work that the KCTCS Board of Regents has put forth in a concerted effort to implement the objectives set forth by the Kentucky Postsecondary Education Improvement Act of 1997. Since the act's inception, the KCTCS Board of Regents has labored with great distinction to achieve its mission of creating a comprehensive community and technical college system within this fine Commonwealth which could be recognized as the nation's best by the year 2020, while continually striving to be responsive to the needs of students and employers in all regions of Kentucky with regard to accessible education and training. Inasmuch as these concerned citizens have put forth tremendous time and effort while serving as true public servants on behalf of their fellow Kentuckians, the members of this distinguished body are delighted to join Speaker Jody Richards in commending the Kentucky Community and Technical College System, and most especially its Board of Regents, on this auspicious occasion and in extending best wishes for the continued success of this organization which is so vital to the improvement of educational opportunities for citizens across this Commonwealth. Done in Frankfort, Kentucky, this twenty-first day of February, in the year two thousand and two.

Legislative Citation No. 56 was adopted without objection.

Representative Smith moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Smith moved the adoption of the following **Legislative Citation No. 55**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and commends the Sixth Grade Students from Viper Elementary School for the conscientious stewardship they have rendered on behalf of their community through their research of the water supply in the Southern area of Perry County. Discovering that this water source contained elements that could potentially pose health risks to those who drink from and use it, these young students wrote letters to Governor Paul E. Patton and Congressman Hal Rogers requesting support for the funding of a plan to bring a municipal water system to the area. Inasmuch as these efforts reflect the laudable concern that these civic-mind students have exhibited for the health and well-being of their fellow citizens and in support of the utilization of techniques that are beneficial to both the community and the environment, the members of this prestigious body are pleased to join with Representative Brandon Smith in affording highest regards to the sixth grade students at Viper Elementary School for the effort put forth in this worthwhile endeavor and in extending to them best wishes for continued success and good fortune. Done in Frankfort, Kentucky, this twenty-first day of February, in the year two thousand and two.

Legislative Citation No. 55 was adopted without objection.

Representative Callahan moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Callahan moved the adoption of the following **Legislative Citation No. 54**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors the esteemed members of Team NKU upon visiting the Capitol in Frankfort, Kentucky, to witness a day in the Regular Session of the 2002 Kentucky General Assembly. Taking this opportunity to communicate directly with members of the Kentucky General Assembly and other elected officials to discuss issues pertinent to the student body at Northern Kentucky University and regarding post secondary education in general, these exceptional students from Northern Kentucky University are commended for displaying the desire to learn more about the history and legislative process of the Commonwealth of Kentucky. Therefore, this honorable body is delighted to join with Representative Jim Callahan in welcoming the members of Team NKU to the Chambers of the House of Representatives and in wishing them success in all future academic endeavors. Done in Frankfort, Kentucky, this twenty-first day of February, in the year two thousand and two.

Legislative Citation No. 54 was adopted without objection.

The Speaker asked that the following **Legislative Citation No. 59** be read. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes the National Corvette Museum upon the auspicious occasion of its 50th Anniversary Celebration in June of 2002. The Corvette, built only in Kentucky since 1981, is widely recognized as America's Sports Car and has gained a well-deserved reputation for its superior level of structural beauty, speed, and quality. The museum, currently operating under the astute leadership of Executive Director Wendell K. Strode, is offered the deepest appreciation of this body for the pride and acclaim that this exceptional Kentucky landmark has afforded all citizens of this fine Commonwealth. The members of the Kentucky House of Representatives are pleased to join Speaker Jody Richards in praising all those who have contributed to the great success of the National Corvette Museum and in extending to them best wishes for future prosperity and success as they kick off this anniversary celebration. Done in Frankfort, Kentucky, this twenty-first day of February, in the year two thousand and two.

Legislative Citation No. 59 was adopted without objection.

Representative Vincent moved that the rules be suspended to grant floor privileges and act on Resolutions. Agreed.

Representative Adkins moved the adoption of the following **HR 82**:

HR 82, A RESOLUTION adjourning the House of Representatives in loving memory and honor of W. Richard "Dick" Martin.

With deepest respect and admiration, we pay homage and tribute to W. Richard "Dick" Martin, and we pause in silent reverence for his soul.

WHEREAS, W. Richard "Dick" Martin was born on June 5, 1924, a native of Huntington, West Virginia, and longtime resident of Ashland, Boyd County, Kentucky, and he traversed these earthly bounds on November 28, 2001; and

WHEREAS, W. Richard "Dick" Martin was the loving son of the late Marion F. and Ruth Ester Angle Martin; he was the devoted husband of Jeanne Glazier Martin, and the loving father of two sons, Dicky Martin and Scott Martin, both of Ashland, and the proud grandfather of four grandchildren, Jamie Martin, Whitney Martin, Hannah Martin and Rachel Martin; and

WHEREAS, W. Richard "Dick" Martin was an esteemed member of the Boyd and Greenup County communities where he was mayor of the City of Ashland from 1987 to 1991, and during his tenure as mayor, he was instrumental in the planning of the riverfront development, Transportation Center, Ashland Town Center and Winter Wonderland of Lights; and

WHEREAS, W. Richard "Dick" Martin was former secretary-treasurer of East Park Industrial Park, co-founder of Tri-State Fair and Regatta, chairman of the Kentucky Leukemia Association, and chairman of the Ambulance Service Board; he was former owner of WCMI and WAMX and the voice of the "Tomcats" from 1947 to 1975; and

WHEREAS, W. Richard "Dick" Martin was a devout member of Calvary Episcopal Church, where his funeral services were held on December 1, 2001, and where he was Sunday school superintendent, and he also served as senior warden of the vestry, chairman of the layreaders and chalice bearers, president of the men's group and chairman of the endowment fund; and

WHEREAS, W. Richard "Dick" Martin served his country with pride and distinction during World War II in the United States Army Air Force; he was the recipient of the Cornerstone Award from the Chamber of Commerce of Boyd and Greenup Counties for his outstanding service to the community, and he was official liaison between the City of Ashland and the White House during former President Richard Nixon's visit to Ashland; and

WHEREAS, the passing of W. Richard "Dick" Martin has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its profound sense of sorrow upon the passing of W. Richard "Dick" Martin, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of W. Richard "Dick" Martin.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Jeanne Glazier Martin, 3900 Ferguson Drive, Ashland, Kentucky 41101.

There being no objection **HR 82** was adopted.

Representative J. Turner moved the adoption of the following **HR 150**:

HR 150, A RESOLUTION adjourning the House of Representatives in honor of Pearl Fraley Lowe upon the occasion of her one hundred and fifth birthday.

The snows of time upon one's head remind us that those points of earth are whitest which are nearest to heaven, and no snow falls lighter than the snow of age, but none lies heavier, for it never melts.

WHEREAS, Pearl Fraley Lowe was born on February 26, 1897, in Harlan County, Kentucky, where she resides today; and

WHEREAS, Pearl Fraley Lowe was the devoted wife of the late Willie Wesley Lowe whom she married on June 15, 1914, in Kitts, Kentucky; and

WHEREAS, Pearl Fraley Lowe was the loving mother of a son, who passed in infancy, and two daughters, Marianne Estelle and Lola, both deceased; and she is the loving mother of two surviving daughters, Juanita Jones of Harlan and Ruby Cornett of Eagle Lake, Florida; she is the adored grandmother of six grandchildren, and she is the maternal ancestor of fifteen great-grandchildren and seven great-great grandchildren; and

WHEREAS, Pearl Fraley Lowe has lived during three centuries, and she has seen and experienced great social and technological changes, including the introduction of radio, television, airplanes, space travel and the advent of computers, and she has also lived through eighteen presidents, the Great Depression and two World Wars; she recalls the first time her father took her to Harlan to introduce her to the new Edison light bulb, and she reminisces about visiting a Civil War battlefield in Mississippi with relatives; and WHEREAS, Pearl Fraley Lowe has lived an active and productive life, and she continues to serve as a source of love and inspiration to all those whose joy it is to know her; and she is an admirer of poetry, reading and reciting it on a daily basis, as well as reading the newspaper and working crossword puzzles; and

WHEREAS, Pearl Fraley Lowe will be one-hundred and five young years of age on February 26, 2002, and to celebrate this glorious event, her friends and relatives will host a Reception and Open House in her honor on Saturday, February 23, 2002, from 11:00 a. m. to 4:00 p.m. at the Harlan Nursing Home;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby extend its most sincere birthday greetings to Pearl Fraley Lowe upon the occasion of her one-hundred and fifth birthday on February 26, 2002. We wish her continued good health and many more birthdays to come.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Pearl Fraley Lowe upon the occasion of her one-hundred and fifth birthday.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Johnny Turner for presentation to Pearl Fraley Lowe, and a copy to the Harlan Nursing Home, P. O. Box 895, Harlan, Kentucky 40831.

There being no objection **HR 150** was adopted.

Representative J. Turner moved the adoption of the following **HR 152**:

HR 152, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Cawood Ledford, a Kentucky legend.

With deepest respect and admiration, we pay homage and tribute to Cawood Ledford, and we pause in silent reverence for his soul.

WHEREAS, it was with heavy hearts and deep sorrow that we learned of Cawood Ledford's passing on September 5, 2001; and

WHEREAS, Cawood Ledford will be affectionately remembered as "The Voice of the Kentucky Wildcats"; he earned the distinction of being the most honored and most celebrated sportscaster in Kentucky history; he began calling the play-by-play of the Kentucky games in 1953, and during his career, he called 17 NCAA Final Fours, including Kentucky's national championship seasons in 1958 and 1978; and he brought an abundance of joy and happiness to thousands of sports fans throughout the United States and abroad; and

WHEREAS, during his thirty-nine-year career with the University of Kentucky, Cawood Ledford was voted "Sportscaster of the Year" twenty-two times; he was also one of the most renowned thoroughbred racing sportscasters in the nation, and his broadcast of Northern Dancer's thrilling stretch win over Hill Rise in the 1964 Kentucky Derby is considered one of the great calls in American horse racing history; he was a three-time winner of the racing industry's highest honor, the prestigious Eclipse Award, and for twenty years, fans associated his voice with the "Run for the Roses"; and

WHEREAS, Cawood Ledford was in a class by himself, as witnessed by the fact that everytime the "Cats" were on television, sports fans across the nation would turn the volumes of their televisions off and their radios on in order to hear Cawood call the game; and

WHEREAS, in addition to giving the play-by-play of the Wildcat games and calling the Kentucky Derby, Cawood Ledford possessed a genius in sportscasting that led him to also call the Heavyweight Boxing Championship, the Masters Golf Tournament, the World Series, and the Final Four; and

WHEREAS, Cawood Ledford was named to the Kentucky Journalism Hall of Fame, and in 1991, his honorary jersey was retired in Rupp Arena, making him the only person other than a coach or player to receive that honor; and

WHEREAS, the passing of Cawood Ledford has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its profound sense of sorrow upon the passing of Cawood Ledford, our native son, and extends to his family and countless friends its most heartfelt sympathy.

Section 2. The passion, dedication, and intelligence Cawood Ledford brought to this Commonwealth will never be forgotten, and sports fans throughout Kentucky will remember him as the fine gentleman that he was, and will remember the many hours of joyous entertainment he brought to Kentuckians everywhere.

Section 3. When the House of Representatives adjourns this day, it does so in loving memory and honor of Cawood Ledford, a Kentucky legend.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Frances Ledford, Cawood, Kentucky 40815.

There being no objection **HR 152** was adopted.

Representative Napier moved to suspend the rules to introduce and act on a resolution.

Introduction of Bills and Resolutions

HR 163, by Representative Napier: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Norman Lee Davis.

Motions, Petitions, and Communications (Continued)

Representative Napier moved the adoption of the following **HR 163**:

HR 163, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Norman Lee Davis.

With deepest respect and admiration, we pay homage and tribute to Norman Lee Davis, and we pause in silent reverence for his soul.

WHEREAS, Norman Lee Davis was born on November 18, 1948, a native of Danville, Boyle County, Kentucky, and longtime resident of Lancaster, Garrard County, Kentucky, and he traversed these earthly bounds on February 14, 2002; and

WHEREAS, Norman Lee Davis was the loving son of the Reverend Leroy Davis and Elsie Gaffney Davis, and he was preceded in death by an infant brother, Steven Davis; he was the devoted husband of Mary Adrianne Arnold Davis, he was the loving father of two sons, Anthony Arnold Davis and Christopher Lee Davis of Lancaster, and he was the proud grandfather of two step-grandchildren, Brandi and Brittany Rhodus; and he is also survived by two brothers, Barry Davis of Lancaster and Roger Davis of Bowling Green, and two sisters, Joe Ann Amon of Lancaster and Nora Williams of London; and

WHEREAS, Norman Lee Davis was an esteemed member of the Garrard County community where he graduated from Garrard County High School and was a member of the 1968 Kentucky All-Star Football Team, and where he was also a former assistant football coach, and a member of the Garrard County Basketball Boosters Club; he was the owner of Lee's Famous Recipe in Lancaster, a former Lancaster police officer, a former magistrate on the Garrard County Fiscal Court, a member of Lancaster United Methodist Church, and a member of Lancaster Lodge No. 104 F & A M, Danville York Rite Bodies, and the Oleika Shrine Temple; and

WHEREAS, the passing of Norman Lee Davis has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its utter sense of bereavement upon the passing of Norman Lee Davis, and extends to his family and many friends its most profound and deepest sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Norman Lee Davis.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit copies of this Resolution to Mrs. Mary Adrianne Davis, 214 Lexington Street, Lancaster, Kentucky 40444; the Reverend Leroy and Elsie Gaffney Davis, 407 Crab Orchard Street, Lancaster, Kentucky 40444; Mr. and Mrs. Cecil B. Arnold, 1015 Danville Street, Lancaster, Kentucky 40444; Mr. Anthony Davis, 1620 Danville Road, Lancaster, Kentucky 40444; and Mr. Christopher Davis, 214 Lexington Street, Lancaster, Kentucky 40444.

There being no objection **HR 163** was adopted.

Representative Stein moved the adoption of the following **HR 156**:

HR 156, A RESOLUTION adjourning the House of Representatives in honor of Marina Ann Dickinson upon the occasion of her adoption and American citizenship.

WHEREAS, Marina Ann Dickinson was born in rural Russia on June 10, 2000, and soon thereafter, was placed for adoption; and

WHEREAS, her proud parents, Robert and Leslie Dickinson, and her big brother, Bradley James Dickinson, of Lexington, Fayette County, Kentucky, are overjoyed by her presence, and the happiness that she has brought to their lives; and

WHEREAS, Marina Ann Dickinson has been granted a Certificate of Naturalization, thereby making her a citizen of the United States of America, and she is deemed by this honorable body worthy of its special acknowledgments; and

WHEREAS, on this memorable and auspicious occasion, Marina Ann Dickinson is deemed an Outstanding Young Citizen of the Commonwealth of Kentucky, and she is vested with all the privileges and responsibilities therein;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its congratulations to Marina Ann Dickinson upon the occasion of her adoption by her loving parents, Robert and Leslie Dickinson, and upon the occasion of becoming a citizen of the United States of America. We are indeed proud to welcome Marina Ann Dickinson to our great Commonwealth.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Marina Ann Dickinson upon the occasion of her adoption and American citizenship.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. and Mrs. Robert Dickinson, 3304 Cheltenham Drive, Lexington, Kentucky 40509.

There being no objection **HR 156** was adopted.

Introduction of Bills and Resolutions (Continued)

HB 722, by Representatives Rader, Bratcher, T. Turner, and Nelson: AN ACT relating to teacher members of school-based decision making councils.

HB 723, by Representative Stumbo: AN ACT relating to revise and correct the Kentucky Revised Statutes.

HB 724, by Representative Siler: AN ACT relating to the Thirty-fourth Judicial District.

HB 725, by Representatives Colter and Cornett: AN ACT relating to school attendance.

HCR 161, by Representatives Pasley and Comer: A CONCURRENT RESOLUTION establishing the Off-road Motorcycle and All-terrain Vehicle Task Force.

HCR 162, by Representative Westrom: A CONCURRENT RESOLUTION requesting the Legislative Research Commission to reestablish the Task Force on Senior Citizens and the Workforce.

HR 164, by Representative Barrows: A RESOLUTION declaring February 21, 2002, as Kentucky Museum and History Day.

HR 165, by Representative Thomas: A RESOLUTION adjourning the House of Representatives in honor of the 4-H Youth Development Program upon the occasion of its one hundredth anniversary.

HJR 166, by Representative Branham: A JOINT RESOLUTION directing the Administrative Office of the Courts to study the feasibility of creating a cybercourt program.

HJR 167, by Representative Gooch: A JOINT RESOLUTION memorializing former State Senator Gates F. Young.

HJR 168, by Representative Gooch: A JOINT RESOLUTION memorializing Amber Henton Hardin.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 709, HCR 159**

Appropriations and Revenue: **HB 710, 711, 712, 713, 715, HCR 154, 158**

Banking and Insurance: **HB 721**

Education: **HJR 160, SB 132, 168**

Health and Welfare: **HCR 153, SB 164**

Judiciary: **HB 716**

Local Government: **HB 718, 719**

Natural Resources and Environment: **HB 708**

Seniors, Military Affairs and Public Safety: **HB 720**

State Government: **HB 714, 717**

Transportation: **HJR 157, SB 7, SJR 16, 23, 24, 39, 42**

Floor Resolutions: **HR 152, 155, 156**

Report of Committees

The Committee on Rules reported that **HB 377, HB 427, HB 537,** and **HB 280** have been posted for passage in the Orders of the Day for February 22, 2002.

The Committee on Health and Welfare reported **HB 673, SB 90** with Committee Substitute attached thereto, and **SB 125,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 673, AN ACT relating to the Public Health Services Advisory Council.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194A.050 is amended to read as follows:

(1) The secretary shall formulate, promote, establish, and execute policies, plans, and programs and shall adopt, administer, and enforce throughout the Commonwealth all applicable state laws and all administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

(2) ~~[The secretary shall utilize the Public Health Services Advisory Council to review and make recommendations on contemplated administrative regulations.]~~No administrative regulations issued under the authority of the cabinet shall be filed with the Legislative Research Commission unless they are issued under the authority of the secretary, and the secretary shall not delegate that authority.

(3) Except as otherwise provided by law, the secretary shall have authority to establish by administrative regulation a schedule of reasonable fees, none of which shall exceed one hundred dollars ($100), to cover the costs of annual inspections of efforts regarding compliance with program standards administered by the cabinet. All fees collected for inspections shall be deposited in the State Treasury and credited to a revolving fund account to be used for administration of those programs of the cabinet. The balance of the account shall lapse to the general fund at the end of each biennium. Fees shall not be charged for investigation of complaints.

SB 90, AN ACT relating to mental health and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 202A.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Authorized staff physician" means a physician who is a bona fide member of the hospital's medical staff;

(2) "Danger" or "threat of danger to self, family, or others" means substantial physical harm or threat of substantial physical harm upon self, family, or others, including actions which deprive self, family, or others of the basic means of survival including provision for reasonable shelter, food, or clothing;

(3) "Cabinet" means the Kentucky Cabinet for Health Services;

(4) "Psychiatric facility" means a crisis stabilization unit or any facility licensed by the cabinet and which provides inpatient, outpatient, psychosocial rehabilitation, emergency, and consultation and education services for the diagnosis and treatment of persons who have a mental illness;

(5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(6) "Hospital" means:

   (a) A state mental hospital or institution or other licensed public or private hospital, institution, health-care facility, or part thereof, approved by the Kentucky Cabinet for Health Services as equipped to provide full-time residential care and treatment for mentally ill or mentally retarded persons;

   (b) A hospital, institution, or health-care facility of the government of the United States equipped to provide residential care and treatment for mentally ill or mentally retarded persons;

(7) "Judge" means any judge or justice of the Court of Justice or a trial commissioner of the District Court acting under authority of SCR 5.030;

(8) "Least restrictive alternative mode of treatment" means that treatment which will give a mentally ill individual a realistic opportunity to improve the individual's level of functioning, consistent with accepted professional practice in the least confining setting available;

(9) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of the person's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors;

(10) "Patient" means a person under observation, care, or treatment in a hospital pursuant to the provisions of this chapter;

(11) "Petitioner" means a person who institutes a proceeding under this chapter;

(12) "Qualified mental health professional" means:

   (a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

   (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A psychologist ***with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate,*** licensed[~~ at the doctoral level or a psychologist or psychological associate certified at the master's level~~] under the provisions of KRS Chapter 319[~~ who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under this chapter~~];

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program;[~~ or~~]

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program;

(f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community mental health and mental retardation program; or

(g) A professional counselor credentialed under the provisions of KRS Chapter 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community mental health and mental retardation program;

(13) "Residence" means legal residence as determined by applicable principles governing conflicts of law;

(14) "Respondent" means a person alleged in a hearing under this chapter to be a mentally ill or mentally retarded person;

(15) "Secretary" means the secretary of the Cabinet for Health Services.

Section 2. KRS 202B.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Authorized staff physician" means a person who is employed as a physician of an ICF/MR;

(2) "Interdisciplinary team" means the group of persons responsible for the diagnosis, evaluation, and individualized program planning and service implementation for the resident. The team is composed of a physician, a psychologist, a registered nurse, a social worker, and other professionals, at least one (1) of whom is a qualified mental retardation professional, and may include the resident, the resident's family, or the guardian;

(3) "Cabinet" means the Kentucky Cabinet for Health Services;

(4) "Danger" or "threat of danger to self, family, or others" means substantial physical harm or threat of substantial physical harm upon self, family, or others, including actions which deprive self, family, or others of the basic means of survival including provision for reasonable shelter, food, or clothing;

(5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(6) "Hospital" means:

(a) A state mental hospital or institution or other licensed public or private hospital, institution, health-care facility, or part thereof, approved by the Kentucky Cabinet for Health Services as equipped to provide full-time residential care and treatment for mentally ill or mentally retarded persons;

(b) A hospital, institution, or health-care facility of the government of the United States equipped to provide residential care and treatment for mentally ill or mentally retarded persons;

(7) "Judge" means any judge or justice of the Court of Justice or a trial commissioner of the District Court acting under authority of SCR 5.030;

(8) "Least restrictive alternative mode of treatment" means that treatment given in the least confining setting which will provide a mentally retarded person appropriate treatment or care consistent with accepted professional practice. For purposes of this section, least restrictive alternative mode of treatment may include an institutional placement;

(9) "Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing

concurrently with deficits in adaptive behavior and manifested during the developmental period;

(10) "ICF/MR" means an intermediate-care facility approved by the cabinet for the evaluation, care, and treatment of mentally retarded persons;

(11) "Petitioner" means a person who institutes a proceeding under this chapter;

(12) "Qualified mental retardation professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychologist ***with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate*** licensed~~[at the doctoral level or a psychologist or psychological associate certified at the master's level]~~ under the provisions of KRS Chapter 319~~[who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under this chapter]~~;

(c) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience of which one (1) year is with mentally retarded persons; or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who has three (3) years of inpatient or outpatient clinical experience of which one (1) year is in the field of mental retardation and is currently employed by an ICF/MR licensed by the cabinet, a hospital, a regional community mental health and mental retardation program, or a private agency or company engaged in the provision of mental retardation services;~~[and]~~

(d) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with two (2) years of inpatient or outpatient clinical experience in social work of which one (1) year shall be in the field of mental retardation and is currently employed by an ICF/MR licensed by the cabinet, a hospital, a regional community mental health and mental retardation program, or a private agency or company engaged in the provision of mental retardation services;

(e) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community mental health and mental retardation program; or

(f) A professional counselor credentialed under the provisions of KRS 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community mental health and mental retardation program;

(13) "Residence" means legal residence as determined by applicable principles governing conflicts of law;

(14) "Resident" means a person under care or treatment in an ICF/MR pursuant to the provisions of this chapter;

(15) "Respondent" means a person alleged in a hearing under this chapter to be a mentally retarded person; and

(16) "Secretary" shall mean the secretary of the Cabinet for Health Services.

Section 3. KRS 202A.400 is amended to read as follows:

(1) No monetary liability and no cause of action shall arise against any~~[qualified]~~ mental health professional for failing to predict, warn of or take precautions to provide protection from a patient's violent behavior, unless the patient has communicated to the~~[qualified]~~ mental health professional an actual threat of physical violence against a clearly identified or reasonably identifiable victim, or unless the patient has communicated to the~~[qualified]~~ mental health professional an actual threat of some specific violent act.

(2) The duty to warn of or to take reasonable precautions to provide protection from violent behavior arises only under the limited circumstances specified in subsection (1) of this section. The duty to warn a clearly or reasonably identifiable victim shall be discharged by the~~[qualified]~~ mental health professional if reasonable efforts are made to communicate the threat to the victim, and to notify the police department closest to the patient's and the victim's residence of the threat of violence. When the patient has communicated to the~~[qualified]~~ mental health professional an actual threat of some specific violent act and no particular victim is identifiable, the duty to warn has been discharged if reasonable efforts are made to communicate the threat to law enforcement authorities. The duty to take reasonable precaution to provide protection from violent behavior shall be satisfied if reasonable efforts are made to seek civil commitment of the patient under this chapter.

(3) No monetary liability and no cause of action shall arise against any~~[qualified]~~ mental health professional for confidences disclosed to third parties in an effort to discharge a duty arising under subsection (1) of this section according to the provisions of subsection (2) of this section.

(4) For purposes of this section, "mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in conducting mental health services;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States engaged in conducting mental health services;

(c) A psychologist, a psychological practitioner, a certified psychologist, or a psychological associate, licensed under the provisions of KRS Chapter 319;

(d) A registered nurse licensed under the provisions of KRS Chapter 314 engaged in providing mental health services;

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 engaged in providing mental health services;

(f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 engaged in providing mental health services;

(g) A professional counselor credentialed under the provisions of KRS Chapter 335.500 to 335.599 engaged in providing mental health services;

(h) An art therapist certified under KRS 309.130 engaged in providing mental health services; or

(i) A fee-based pastoral counselor certified under the provisions of KRS 335.600 to 335.699 engaged in providing mental health services.

Section 4. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child:

(a) Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;

(b) Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;

(c) Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005(12);

(d) Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;

(e) Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;

(f) Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;

(g) Abandons or exploits the child; or

(h) Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child; or

(i) Fails to make sufficient progress toward identified goals as set forth in the court-approved case plan to allow for the safe return of the child to the parent that results in the child remaining committed to the cabinet and remaining in foster care for fifteen (15) of the most recent twenty-two (22) months;

(2) "Aggravated circumstances" means the existence of one (1) or more of the following conditions:

(a) The parent has not attempted or has not had contact with the child for a period of not less than ninety (90) days;

(b) The parent is incarcerated and will be unavailable to care for the child for a period of at least one (1) year from the date of the child's entry into foster care and there is no appropriate relative placement available during this period of time;

(c) The parent has sexually abused the child and has refused available treatment;

(d) The parent has been found by the cabinet to have engaged in abuse of the child that required removal from the parent's home two (2) or more times in the past two (2) years; or

(e) The parent has caused the child serious physical injury;

(3) "Beyond the control of school" means any child who has been found by the court to have repeatedly violated the lawful regulations for the government of the school as provided in KRS 158.150, and as documented in writing by the school as a part of the school's petition or as an attachment to the school's petition. The petition or attachment shall describe the student's behavior and all intervention strategies attempted by the school;

(4) "Beyond the control of parents" means a child who has repeatedly failed to follow the reasonable directives of his or her parents, legal guardian, or person exercising custodial control or supervision other than a state agency, which behavior

results in danger to the child or others, and which behavior does not constitute behavior that would warrant the filing of a petition under KRS Chapter 645;

(5) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;

(6) "Cabinet" means the Cabinet for Families and Children;

(7) "Certified juvenile facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training in juvenile detention developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;

(8) "Child" means any person who has not reached his eighteenth birthday, unless otherwise provided;

(9) "Child-caring facility" means any facility or group home other than a state facility, Department of Juvenile Justice contract facility or group home, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;

(10) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(11) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(12) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Families and Children, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless the commitment is discharged under KRS Chapter 605 or the committing court terminates or extends the order;

(13) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(14) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(15) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;

(16) "Court-designated worker" means that organization or individual delegated by the Administrative Office of the Courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;

(17) "Deadly weapon" has the same meaning as it does in KRS 500.080;

(18) "Department" means the Department for Community Based Services;

(19) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(20) "Detention" means the safe and temporary custody of a juvenile who is accused of conduct subject to the jurisdiction of the court who requires a restricted environment for his or her own or the community's protection;

(21) "Detention hearing" means a hearing held by a judge or trial commissioner within twenty-four (24) hours, exclusive of weekends and holidays, of the start of any period of detention prior to adjudication;

(22) "Diversion agreement" means an agreement entered into between a court-designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(23) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(24) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in the child's ability to function within a normal range of performance and behavior with due regard to his age, development, culture, and environment as testified to by a qualified mental health professional;

(25) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

(26) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(27) "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(28) "Habitual truant" means any child who has been found by the court to have been reported as a truant as defined in KRS 159.150 three (3) or more times during a one (1) year period;

(29) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(30) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(31) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(32) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(33) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which a child accused of a public offense may be detained for a period not to exceed twenty-four (24) hours, exclusive of weekends and holidays prior to a detention hearing as provided for in KRS 610.265, and in which children are supervised and observed on a regular basis by certified juvenile facility staff;

(34) "Juvenile holding facility" means a physically secure facility, approved by the Department of Juvenile Justice, which is an entirely separate portion or wing of a building containing an adult jail, which provides total sight and sound separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile facility staff to provide twenty-four (24) hours per day supervision;

(35) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; or protection of the community, and is conducted at the suitable available facility closest to the child's place of residence;

(36) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;

(37) "Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;

(38) "Needs of the child" means necessary food, clothing, health, shelter, and education;

(39) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(40) "Nonsecure setting" means a nonsecure facility or a residential home, including a child's own home, where a child may be temporarily placed pending further court action. Children before the court in a county that is served by a state operated secure detention facility, who are in the detention custody of the Department of Juvenile Justice, and who are placed in a nonsecure alternative by the Department of Juvenile Justice, shall be supervised by the Department of Juvenile Justice;

(41) "Parent" means the biological or adoptive mother or father of a child;

(42) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(43) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(44) "Physical injury" means substantial physical pain or any impairment of physical condition;

(45) "Physically secure facility" means a facility that relies primarily on the use of construction and hardware such as locks, bars, and fences to restrict freedom;

(46) "Public offense action" means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;

(47) "Qualified mental health professional" means:

   (a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

   (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

   (c) A[~~ licensed~~] psychologist ***with the health service provider designation, a psychological practitioner, a certified***

psychologist, or a psychological associate licensed~~[at the doctoral level or certified at the master's level]~~ under the provisions of KRS Chapter 319~~[who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under KRS Chapters 600 to 645]~~;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;~~[or]~~

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center; or

(g) A professional counselor credentialed under the provisions of KRS 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center;

(48) "Residential treatment facility" means a facility or group home with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;

(49) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;

(50) "School personnel" means those certified persons under the supervision of the local public or private education agency;

(51) "Secretary" means the secretary of the Cabinet for Families and Children;

(52) "Secure juvenile detention facility" means any physically secure facility used for the secure detention of children other than any facility in which adult prisoners are confined;

(53) "Staff secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(54) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily member or organ;

(55) "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions in which the parent, guardian, or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(56) "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(57) "Social service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(58) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;

(59) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(60) “Valid court order” means a court order issued by a judge to a child alleged or found to be a status offender:

(a) Who was brought before the court and made subject to the order;

(b) Whose future conduct was regulated by the order;

(c) Who was given written and verbal warning of the consequences of the violation of the order at the time the order was issued and whose attorney or parent or legal guardian was also provided with a written notice of the consequences of violation of the order, which notification is reflected in the record of the court proceedings; and

(d) Who received, before the issuance of the order, the full due process rights guaranteed by the Constitution of the United States.

(61) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

(62) "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 15A.320; and

(63) "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

Section 5. KRS 645.020 is amended to read as follows:

The definitions in KRS Chapter 600 shall apply to this chapter. In addition, unless the context requires otherwise:

(1) "Convalescent leave" means an authorized release not to exceed ninety (90) days of a child admitted to a hospital under this chapter;

(2) "Danger to self or others" means that it is shown by substantial proof that in the near future the child may attempt suicide or may cause substantial physical harm or threat of substantial physical harm to self or others, as evidenced by recent threats or overt acts, including acts by which the child deprives self or others of the basic means of survival, including reasonable shelter, food or clothing. In determining whether a child presents a danger to self, factors to be considered shall include, but shall not be limited to, an established pattern of past dangerous behavior;

(3) "Hospital" means a licensed private or public institution, health care facility, or part thereof, approved by the cabinet to treat children who are mentally ill;

(4) "Least restrictive alternative" means the treatment and conditions of treatment for a child which, separately and in combination:

(a) Are no more harsh, hazardous or intrusive than necessary to achieve acceptable treatment objectives for the child; and

(b) Involve no inpatient care restrictions on physical movement except as reasonably necessary for the administration of treatment or for the protection of the child or others from physical injury.

In determining the least restrictive alternative, factors to be considered shall include, but not be limited to, the likelihood, based on the child's prior outpatient treatment, that the child will benefit from outpatient treatment;

(5) "Mental health facility" means a residential or nonresidential service providing children psychological or psychiatric treatment for emotional, mental, or behavioral problems;

(6) "Mental health group home" means a community-based facility established to serve not less than four (4) nor more than eight (8) mentally ill children with a treatment program developed and supervised by a qualified mental health professional. Mental health group homes shall not be adjacent to or part of a residential treatment facility or a hospital;[~~and~~]

(7) ***"Mental health professional" means:***

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in conducting mental health services;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States engaged in conducting mental health services;

(c) A psychologist, a psychological practitioner, a certified psychologist, or a psychological associate, licensed under the provisions of KRS Chapter 319;

(d) A registered nurse licensed under the provisions of KRS Chapter 314 engaged in providing mental health services;

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 engaged in providing mental health services;

(f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 engaged in providing mental health services;

(g) A professional counselor credentialed under the provisions of KRS Chapter 335.500 to 335.599 engaged in providing mental health services;

(h) An art therapist certified under KRS 309.130 engaged in providing mental health services; or

(i) A fee-based pastoral counselor certified under the provisions of KRS 335.600 to 335.699 engaged in providing mental health services; and

(8) "Mentally ill child" means that considering the child's age and development, the child has a substantially impaired capacity to use self-control, judgment or discretion in the conduct of the child's affairs and social relations, the child's behavior is maladaptive or the child exhibits recognized emotional symptoms which can be related to physiological, psychological or social factors.

Section 6. KRS 645.270 is amended to read as follows:

(1) No monetary liability and no cause of action shall arise against any[~~ qualified~~] mental health professional ***or person serving in a counselor role*** for failing to predict, warn or take precautions to provide protection from a patient's violent behavior, unless the patient has communicated to the[~~ qualified~~] mental health professional or person serving in a counselor role an actual threat of physical violence against a clearly identified or reasonably identified victim, or unless the patient has communicated to the[~~ qualified~~] mental health professional or other person serving in a counselor role an actual threat of some specific violent act.

(2) The duty to warn or to take reasonable precautions to provide protection from violent behavior arises only under limited circumstances specified in subsection (1) of this section. The duty to warn a clearly or reasonably identifiable victim shall be discharged by the[~~ qualified~~] mental health professional or person serving in a counselor role if reasonable efforts are made to communicate the threat to the victim and to notify the law enforcement office closest to the patient's and the victim's residence of the threat of violence. If the patient has communicated to the[~~ qualified~~] mental health professional or person serving in a counselor role an actual threat of some specific violent act and no particular victim is identifiable, the duty to warn has been discharged if reasonable efforts are made to communicate the threat to law enforcement authorities. The duty to take reasonable precautions to provide protection from violent behavior shall be satisfied if reasonable efforts are made to seek civil commitment of the child under KRS Chapter 645.

(3) No monetary liability and no cause of action shall arise against any[~~ qualified~~] mental health professional or person serving in a counselor role for confidences disclosed to third parties in an effort to discharge a duty arising under this section.

Section 7. KRE 506 is amended to read as follows:

(a) Definitions. As used in this rule:

(1) A "counselor" includes:

(A) A certified school counselor who meets the requirements of the Kentucky Board of Education and who is duly appointed and regularly employed for the purpose of counseling in a public or private school of this state;

(B) A sexual assault counselor, who is a person engaged in a rape crisis center, as defined in KRS Chapter 421, who has undergone forty (40) hours of training and is under the control of a direct services supervisor of a rape crisis center, whose primary purpose is the rendering of advice, counseling, or assistance to victims of sexual assault;

(C) A certified professional art therapist who is engaged to conduct art therapy ***under***[~~pursuant to~~] KRS 309.130 to 309.1399;

(D) A ***licensed***[~~certified~~] marriage and family therapist as defined in KRS 335.300 who is engaged to conduct marriage and family therapy pursuant to KRS 335.300 to 335.399;

(E) A certified professional counselor as defined in KRS 335.500;

(F) An individual who provides crisis response services as a member of the community crisis response team or local community crisis response team ***under***[~~pursuant to~~] KRS 36.250 to 36.270;

(G) A victim advocate as defined in KRS 421.570 except a victim advocate who is employed by a Commonwealth's attorney ***under***[~~pursuant to~~] KRS 15.760 or a county attorney pursuant to KRS 69.350; and

(H) A certified fee-based pastoral counselor as defined in KRS 335.600 who is engaged to conduct fee-based pastoral counseling ***under***[~~pursuant to~~] KRS 335.600 to 335.699.

(2) A "client" is a person who consults or is interviewed or assisted by a counselor for the purpose of obtaining professional or crisis response services from the counselor.

(3) A communication is "confidential" if it is not intended to be disclosed to third persons, except persons present to further the interest of the client in the consultation or interview, persons reasonably necessary for the transmission of the communication, or persons present during the communication at the direction of the counselor, including members of the client's family.

(b) General rule of privilege. A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of counseling the client, between himself, his counselor, and persons present at the direction of the counselor, including members of the client's family.

(c) Who may claim the privilege. The privilege may be claimed by the client, his guardian or conservator, or the personal representative of a deceased client. The person who was the counselor (or that person's employer) may claim the privilege in the absence of the client, but only on behalf of the client.

(d) Exceptions. There is no privilege under this rule for any relevant communication:

(1) If the client is asserting his physical, mental, or emotional condition as an element of a claim or defense; or, after the client's death, in any proceeding in which any party relies upon the condition as an element of a claim or defense.

(2) If the judge finds:

(A) That the substance of the communication is relevant to an essential issue in the case;

(B) That there are no available alternate means to obtain the substantial equivalent of the communication; and

(C) That the need for the information outweighs the interest protected by the privilege. The court may receive evidence in camera to make findings under this rule.

Section 8. Whereas our country and our schools have increasingly become the targets of acts of premeditated violence and it is important that mental health professionals privy to these threats beforehand be encouraged to communicate these threats to law enforcement and intended victims without civil or criminal liability, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The House Committee Substitute to **SB 90** is as follows:

SB 90, AN ACT relating to mental health and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 202A.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Authorized staff physician" means a physician who is a bona fide member of the hospital's medical staff;

(2) "Danger" or "threat of danger to self, family, or others" means substantial physical harm or threat of substantial physical harm upon self, family, or others, including actions which deprive self, family, or others of the basic means of survival including provision for reasonable shelter, food, or clothing;

(3) "Cabinet" means the Kentucky Cabinet for Health Services;

(4) "Psychiatric facility" means a crisis stabilization unit or any facility licensed by the cabinet and which provides inpatient, outpatient, psychosocial rehabilitation, emergency, and consultation and education services for the diagnosis and treatment of persons who have a mental illness;

(5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(6) "Hospital" means:

(a) A state mental hospital or institution or other licensed public or private hospital, institution, health-care facility, or part thereof, approved by the Kentucky Cabinet for Health Services as equipped to provide full-time residential care and treatment for mentally ill or mentally retarded persons;

(b) A hospital, institution, or health-care facility of the government of the United States equipped to provide residential care and treatment for mentally ill or mentally retarded persons;

(7) "Judge" means any judge or justice of the Court of Justice or a trial commissioner of the District Court acting under authority of SCR 5.030;

(8) "Least restrictive alternative mode of treatment" means that treatment which will give a mentally ill individual a realistic opportunity to improve the individual's level of functioning, consistent with accepted professional practice in the least confining setting available;

(9) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of the person's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors;

(10) "Patient" means a person under observation, care, or treatment in a hospital pursuant to the provisions of this chapter;

(11) "Petitioner" means a person who institutes a proceeding under this chapter;

(12) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A psychologist ***with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate,*** licensed~~[at the doctoral level or a psychologist or psychological associate certified at the master's level]~~ under the provisions of KRS Chapter 319~~[who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under this chapter]~~;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program;~~[or]~~

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program;

(f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community mental health and mental retardation program; or

(g) A professional counselor credentialed under the provisions of KRS Chapter 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community mental health and mental retardation program;

(13) "Residence" means legal residence as determined by applicable principles governing conflicts of law;

(14) "Respondent" means a person alleged in a hearing under this chapter to be a mentally ill or mentally retarded person;

(15) "Secretary" means the secretary of the Cabinet for Health Services.

Section 2. KRS 202B.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Authorized staff physician" means a person who is employed as a physician of an ICF/MR;

(2) "Interdisciplinary team" means the group of persons responsible for the diagnosis, evaluation, and individualized program planning and service implementation for the resident. The team is composed of a physician, a psychologist, a registered nurse, a social worker, and other professionals, at least one (1) of whom is a qualified mental retardation professional, and may include the resident, the resident's family, or the guardian;

(3) "Cabinet" means the Kentucky Cabinet for Health Services;

(4) "Danger" or "threat of danger to self, family, or others" means substantial physical harm or threat of substantial physical harm upon self, family, or others, including actions which deprive self, family, or others of the basic means of survival including provision for reasonable shelter, food, or clothing;

(5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(6) "Hospital" means:

(a) A state mental hospital or institution or other licensed public or private hospital, institution, health-care facility, or part thereof, approved by the Kentucky Cabinet for Health Services as equipped to provide full-time residential care and treatment for mentally ill or mentally retarded persons;

(b) A hospital, institution, or health-care facility of the government of the United States equipped to provide residential care and treatment for mentally ill or mentally retarded persons;

(7) "Judge" means any judge or justice of the Court of Justice or a trial commissioner of the District Court acting under authority of SCR 5.030;

(8) "Least restrictive alternative mode of treatment" means that treatment given in the least confining setting which will provide a mentally retarded person appropriate treatment or care consistent with accepted professional practice. For purposes of this section, least restrictive alternative mode of treatment may include an institutional placement;

(9) "Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period;

(10) "ICF/MR" means an intermediate-care facility approved by the cabinet for the evaluation, care, and treatment of mentally retarded persons;

(11) "Petitioner" means a person who institutes a proceeding under this chapter;

(12) "Qualified mental retardation professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychologist ***with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate*** licensed~~[at the doctoral level or a psychologist or psychological associate certified at the master's level]~~ under the provisions of KRS Chapter 319~~[who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under this chapter]~~;

(c) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience of which one (1) year is with mentally retarded persons; or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who has three (3) years of inpatient or outpatient clinical experience of which one (1) year is in the field of mental retardation and is currently employed by an ICF/MR licensed by the cabinet, a hospital, a regional community mental health and mental retardation program, or a private agency~~,~~ or company engaged in the provision of mental retardation services;~~[and]~~

(d) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with two (2) years of inpatient or outpatient clinical experience in social work of which one (1) year shall be in the field of mental retardation and is currently employed by an ICF/MR licensed by the cabinet, a hospital, a regional community mental health and mental retardation program, or a private agency or company engaged in the provision of mental retardation services;

(e) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community mental health and mental retardation program; or

(f) A professional counselor credentialed under the provisions of KRS 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community mental health and mental retardation program;

(13) "Residence" means legal residence as determined by applicable principles governing conflicts of law;

(14) "Resident" means a person under care or treatment in an ICF/MR pursuant to the provisions of this chapter;

(15) "Respondent" means a person alleged in a hearing under this chapter to be a mentally retarded person; and

(16) "Secretary" shall mean the secretary of the Cabinet for Health Services.

Section 3. KRS 202A.400 is amended to read as follows:

(1) No monetary liability and no cause of action shall arise against any~~[qualified]~~ mental health professional for failing to predict, warn of or take precautions to provide protection from a patient's violent behavior, unless the patient has communicated to the~~[qualified]~~ mental health professional an actual threat of physical violence against a clearly identified or reasonably identifiable victim, or unless the patient has communicated to the~~[qualified]~~ mental health professional an actual threat of some specific violent act.

(2) The duty to warn of or to take reasonable precautions to provide protection from violent behavior arises only under the limited circumstances specified in subsection (1) of this section. The duty to warn a clearly or reasonably identifiable victim shall be discharged by the~~[qualified]~~ mental health professional if reasonable efforts are made to communicate the threat to the victim, and to notify the police department closest to the patient's and the victim's residence of the threat of violence. When the patient has communicated to the~~[qualified]~~ mental health professional an actual threat of some specific violent act and no particular victim is identifiable, the duty to warn has been discharged if reasonable efforts are made to communicate the threat to law enforcement authorities. The duty to take reasonable precaution to provide protection from violent behavior shall be satisfied if reasonable efforts are made to seek civil commitment of the patient under this chapter.

(3) No monetary liability and no cause of action shall arise against any~~[qualified]~~ mental health professional for confidences disclosed to third parties in an effort to discharge a duty arising under subsection (1) of this section according to the provisions of subsection (2) of this section.

(4) For purposes of this section, "mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in conducting mental health services;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States engaged in conducting mental health services;

(c) A psychologist, a psychological practitioner, a certified psychologist, or a psychological associate, licensed under the provisions of KRS Chapter 319;

(d) A registered nurse licensed under the provisions of KRS Chapter 314 engaged in providing mental health services;

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 engaged in providing mental health services;

(f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 engaged in providing mental health services;

(g) A professional counselor credentialed under the provisions of KRS Chapter 335.500 to 335.599 engaged in providing mental health services;

(h) An art therapist certified under KRS 309.130 engaged in providing mental health services; or

(i) A fee-based pastoral counselor certified under the provisions of KRS 335.600 to 335.699 engaged in providing mental health services.

Section 4. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child:

(a) Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;

(b) Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;

(c) Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005(12);

(d) Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;

(e) Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;

(f) Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;

(g) Abandons or exploits the child; or

(h) Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child; or

(i) Fails to make sufficient progress toward identified goals as set forth in the court-approved case plan to allow for the safe return of the child to the parent that results in the child remaining committed to the cabinet and remaining in foster care for fifteen (15) of the most recent twenty-two (22) months;

(2) "Aggravated circumstances" means the existence of one (1) or more of the following conditions:

(a) The parent has not attempted or has not had contact with the child for a period of not less than ninety (90) days;

(b) The parent is incarcerated and will be unavailable to care for the child for a period of at least one (1) year from the date of the child's entry into foster care and there is no appropriate relative placement available during this period of time;

(c) The parent has sexually abused the child and has refused available treatment;

(d) The parent has been found by the cabinet to have engaged in abuse of the child that required removal from the parent's home two (2) or more times in the past two (2) years; or

(e) The parent has caused the child serious physical injury;

(3) "Beyond the control of school" means any child who has been found by the court to have repeatedly violated the lawful regulations for the government of the school as provided in KRS 158.150, and as documented in writing by the school as a part of the school's petition or as an attachment to the school's petition. The petition or attachment shall describe the student's behavior and all intervention strategies attempted by the school;

(4) "Beyond the control of parents" means a child who has repeatedly failed to follow the reasonable directives of his or her parents, legal guardian, or person exercising custodial control or supervision other than a state agency, which behavior results in danger to the child or others, and which behavior does not constitute behavior that would warrant the filing of a petition under KRS Chapter 645;

(5) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;

(6) "Cabinet" means the Cabinet for Families and Children;

(7) "Certified juvenile facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training in juvenile detention developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;

(8) "Child" means any person who has not reached his eighteenth birthday, unless otherwise provided;

(9) "Child-caring facility" means any facility or group home other than a state facility, Department of Juvenile Justice contract facility or group home, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;

(10) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(11) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(12) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Families and Children, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless the commitment is discharged under KRS Chapter 605 or the committing court terminates or extends the order;

(13) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(14) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(15) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;

(16) "Court-designated worker" means that organization or individual delegated by the Administrative Office of the Courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;

(17) "Deadly weapon" has the same meaning as it does in KRS 500.080;

(18) "Department" means the Department for Community Based Services;

(19) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(20) "Detention" means the safe and temporary custody of a juvenile who is accused of conduct subject to the jurisdiction of the court who requires a restricted environment for his or her own or the community's protection;

(21) "Detention hearing" means a hearing held by a judge or trial commissioner within twenty-four (24) hours, exclusive of weekends and holidays, of the start of any period of detention prior to adjudication;

(22) "Diversion agreement" means an agreement entered into between a court-designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(23) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(24) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in the child's ability to function within a normal range of performance and behavior with due regard to his age, development, culture, and environment as testified to by a qualified mental health professional;

(25) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

(26) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(27) "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(28) "Habitual truant" means any child who has been found by the court to have been reported as a truant as defined in KRS 159.150 three (3) or more times during a one (1) year period;

(29) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(30) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(31) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(32) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(33) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which a child accused of a public offense may be detained for a period not to exceed twenty-four (24) hours, exclusive of weekends and holidays prior to a detention hearing as provided for in KRS 610.265, and in which children are supervised and observed on a regular basis by certified juvenile facility staff;

(34) "Juvenile holding facility" means a physically secure facility, approved by the Department of Juvenile Justice, which is an entirely separate portion or wing of a building containing an adult jail, which provides total sight and sound separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile facility staff to provide twenty-four (24) hours per day supervision;

(35) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; or protection of the community, and is conducted at the suitable available facility closest to the child's place of residence;

(36) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;

(37) "Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;

(38) "Needs of the child" means necessary food, clothing, health, shelter, and education;

(39) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(40) "Nonsecure setting" means a nonsecure facility or a residential home, including a child's own home, where a child may be temporarily placed pending further court action. Children before the court in a county that is served by a state operated secure detention facility, who are in the detention custody of the Department of Juvenile Justice, and who are placed in a nonsecure alternative by the Department of Juvenile Justice, shall be supervised by the Department of Juvenile Justice;

(41) "Parent" means the biological or adoptive mother or father of a child;

(42) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(43) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(44) "Physical injury" means substantial physical pain or any impairment of physical condition;

(45) "Physically secure facility" means a facility that relies primarily on the use of construction and hardware such as locks, bars, and fences to restrict freedom;

(46) "Public offense action" means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;

(47) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A[~~ licensed~~] psychologist ***with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate licensed***[~~at the doctoral level or certified at the master's level~~] under the provisions of KRS Chapter 319[~~ who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under KRS Chapters 600 to 645~~];

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American

Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;[~~ or~~]

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center; or

(g) A professional counselor credentialed under the provisions of KRS 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center;

(48) "Residential treatment facility" means a facility or group home with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;

(49) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;

(50) "School personnel" means those certified persons under the supervision of the local public or private education agency;

(51) "Secretary" means the secretary of the Cabinet for Families and Children;

(52) "Secure juvenile detention facility" means any physically secure facility used for the secure detention of children other than any facility in which adult prisoners are confined;

(53) "Staff secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(54) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily member or organ;

(55) "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions in which the parent, guardian, or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(56) "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(57) "Social service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(58) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;

(59) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(60) “Valid court order” means a court order issued by a judge to a child alleged or found to be a status offender:

  (a) Who was brought before the court and made subject to the order;

  (b) Whose future conduct was regulated by the order;

  (c) Who was given written and verbal warning of the consequences of the violation of the order at the time the order was issued and whose attorney or parent or legal guardian was also provided with a written notice of the consequences of violation of the order, which notification is reflected in the record of the court proceedings; and

  (d) Who received, before the issuance of the order, the full due process rights guaranteed by the Constitution of the United States.

(61) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

(62) "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the detention of

juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 15A.320; and

(63) "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

Section 5. KRS 645.020 is amended to read as follows:

The definitions in KRS Chapter 600 shall apply to this chapter. In addition, unless the context requires otherwise:

(1) "Convalescent leave" means an authorized release not to exceed ninety (90) days of a child admitted to a hospital under this chapter;

(2) "Danger to self or others" means that it is shown by substantial proof that in the near future the child may attempt suicide or may cause substantial physical harm or threat of substantial physical harm to self or others, as evidenced by recent threats or overt acts, including acts by which the child deprives self or others of the basic means of survival, including reasonable shelter, food or clothing. In determining whether a child presents a danger to self, factors to be considered shall include, but shall not be limited to, an established pattern of past dangerous behavior;

(3) "Hospital" means a licensed private or public institution, health care facility, or part thereof, approved by the cabinet to treat children who are mentally ill;

(4) "Least restrictive alternative" means the treatment and conditions of treatment for a child which, separately and in combination:

(a) Are no more harsh, hazardous or intrusive than necessary to achieve acceptable treatment objectives for the child; and

(b) Involve no inpatient care restrictions on physical movement except as reasonably necessary for the administration of treatment or for the protection of the child or others from physical injury.

In determining the least restrictive alternative, factors to be considered shall include, but not be limited to, the likelihood, based on the child's prior outpatient treatment, that the child will benefit from outpatient treatment;

(5) "Mental health facility" means a residential or nonresidential service providing children psychological or psychiatric treatment for emotional, mental, or behavioral problems;

(6) "Mental health group home" means a community-based facility established to serve not less than four (4) nor more than eight (8) mentally ill children with a treatment program developed and supervised by a qualified mental health professional. Mental health group homes shall not be adjacent to or part of a residential treatment facility or a hospital;[~~ and~~]

(7) ***"Mental health professional" means:***

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in conducting mental health services;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States engaged in conducting mental health services;

(c) A psychologist, a psychological practitioner, a certified psychologist, or a psychological associate, licensed under the provisions of KRS Chapter 319;

(d) A registered nurse licensed under the provisions of KRS Chapter 314 engaged in providing mental health services;

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 engaged in providing mental health services;

(f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 engaged in providing mental health services;

(g) A professional counselor credentialed under the provisions of KRS Chapter 335.500 to 335.599 engaged in providing mental health services;

(h) An art therapist certified under KRS 309.130 engaged in providing mental health services; or

(i) A fee-based pastoral counselor certified under the provisions of KRS 335.600 to 335.699 engaged in providing mental health services; and

(8) "Mentally ill child" means that considering the child's age and development, the child has a substantially impaired capacity to use self-control, judgment or discretion in the conduct of the child's affairs and social relations, the child's behavior is maladaptive or the child exhibits recognized emotional symptoms which can be related to physiological, psychological or social factors.

Section 6. KRS 645.270 is amended to read as follows:

(1) No monetary liability and no cause of action shall arise against any[~~ qualified~~] mental health professional ***or person serving in a counselor role*** for failing to predict, warn or take precautions to provide protection from a patient's violent behavior, unless the patient has communicated to the[~~ qualified~~] mental health professional or person serving in a counselor role an actual threat of physical violence against a clearly identified or reasonably identified victim, or unless the

patient has communicated to the~~[qualified]~~ mental health professional or other person serving in a counselor role an actual threat of some specific violent act.

(2) The duty to warn or to take reasonable precautions to provide protection from violent behavior arises only under limited circumstances specified in subsection (1) of this section. The duty to warn a clearly or reasonably identifiable victim shall be discharged by the~~[qualified]~~ mental health professional or person serving in a counselor role if reasonable efforts are made to communicate the threat to the victim and to notify the law enforcement office closest to the patient's and the victim's residence of the threat of violence. If the patient has communicated to the~~[qualified]~~ mental health professional or person serving in a counselor role an actual threat of some specific violent act and no particular victim is identifiable, the duty to warn has been discharged if reasonable efforts are made to communicate the threat to law enforcement authorities. The duty to take reasonable precautions to provide protection from violent behavior shall be satisfied if reasonable efforts are made to seek civil commitment of the child under KRS Chapter 645.

(3) No monetary liability and no cause of action shall arise against any~~[qualified]~~ mental health professional or person serving in a counselor role for confidences disclosed to third parties in an effort to discharge a duty arising under this section.

Section 7. KRE 506 is amended to read as follows:

(a) Definitions. As used in this rule:

(1) A "counselor" includes:

(A) A certified school counselor who meets the requirements of the Kentucky Board of Education and who is duly appointed and regularly employed for the purpose of counseling in a public or private school of this state;

(B) A sexual assault counselor, who is a person engaged in a rape crisis center, as defined in KRS Chapter 421, who has undergone forty (40) hours of training and is under the control of a direct services supervisor of a rape crisis center, whose primary purpose is the rendering of advice, counseling, or assistance to victims of sexual assault;

(C) A certified professional art therapist who is engaged to conduct art therapy ***under***~~[pursuant to]~~ KRS 309.130 to 309.1399;

(D) A ***licensed***~~[certified]~~ marriage and family therapist as defined in KRS 335.300 who is engaged to conduct marriage and family therapy pursuant to KRS 335.300 to 335.399;

(E) A certified professional counselor as defined in KRS 335.500;

(F) An individual who provides crisis response services as a member of the community crisis response team or local community crisis response team ***under***~~[pursuant to]~~ KRS 36.250 to 36.270;

(G) A victim advocate as defined in KRS 421.570 except a victim advocate who is employed by a Commonwealth's attorney ***under***~~[pursuant to]~~ KRS 15.760 or a county attorney pursuant to KRS 69.350; and

(H) A certified fee-based pastoral counselor as defined in KRS 335.600 who is engaged to conduct fee-based pastoral counseling ***under***~~[pursuant to]~~ KRS 335.600 to 335.699.

(2) A "client" is a person who consults or is interviewed or assisted by a counselor for the purpose of obtaining professional or crisis response services from the counselor.

(3) A communication is "confidential" if it is not intended to be disclosed to third persons, except persons present to further the interest of the client in the consultation or interview, persons reasonably necessary for the transmission of the communication, or persons present during the communication at the direction of the counselor, including members of the client's family.

(b) General rule of privilege. A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of counseling the client, between himself, his counselor, and persons present at the direction of the counselor, including members of the client's family.

(c) Who may claim the privilege. The privilege may be claimed by the client, his guardian or conservator, or the personal representative of a deceased client. The person who was the counselor (or that person's employer) may claim the privilege in the absence of the client, but only on behalf of the client.

(d) Exceptions. There is no privilege under this rule for any relevant communication:

(1) If the client is asserting his physical, mental, or emotional condition as an element of a claim or defense; or, after the client's death, in any proceeding in which any party relies upon the condition as an element of a claim or defense.

(2) If the judge finds:

(A) That the substance of the communication is relevant to an essential issue in the case;

(B) That there are no available alternate means to obtain the substantial equivalent of the communication; and

(C) That the need for the information outweighs the interest protected by the privilege. The court may receive evidence in camera to make findings under this rule.

Section 8. Whereas our country and our schools have increasingly become the targets of acts of premeditated violence and it is important that mental health professionals privy to these threats beforehand be encouraged to communicate these threats to law enforcement and intended victims without civil or criminal liability, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

SB 125, AN ACT relating to emergency medical matters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 311.652 TO 311.658 IS CREATED TO READ AS FOLLOWS:

No public agency, tax district, or other publicly funded emergency medical service first response provider or licensed ambulance service shall have a residence requirement for an employee of or volunteer for the organization.

The House Committee Substitute to **SB 125** is as follows:

SB 125, AN ACT relating to emergency medical matters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 311.652 TO 311.658 IS CREATED TO READ AS FOLLOWS:

(1) No public agency, tax district, or other publicly funded emergency medical service first response provider or licensed ambulance service shall have a residence requirement for an employee of or volunteer for the organization.

(2) The provisions of subsection (1) shall not preclude an employer or agency specified in subsection (1) from having a requirement for response to a specified location within a specified time limit for an employee or volunteer who is off-duty but who is on-call to respond for work.

The Committee on Local Government reported **HB 334, HB 471, HB 478** with Committee Substitute and Committee Amendment attached thereto, **HB 521, HB 533,** and **HB 615** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 334, AN ACT changing the classification of the City of Crestwood, in Oldham County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Crestwood, in Oldham County, is such as to justify its being classified as a city of the fifth class;

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Crestwood, in Oldham County, is transferred from the sixth to the fifth class of cities.

HB 471, AN ACT relating to the taxing authority of emergency services boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.670 is amended to read as follows:

(1) (a) In order to ensure the delivery of adequate services to the community or communities, the emergency services board may levy an ad valorem tax ***on real property and tangible personal property*** not to exceed ten cents ($0.10) per one hundred dollars ($100) of the assessed valuation of ***each class of***[~~all~~] property in the district ***for each special district board that is merged into the emergency services board***. The emergency services board ad valorem tax shall be collected by the sheriff of each member county in the same manner as county ad valorem taxes. The sheriff shall be entitled to a fee of four percent (4%) of the amount of the tax collected; and

(b) The emergency services board may, in addition to the ad valorem tax in paragraph (a) of this subsection, charge fees necessary to further defray the costs of its operation.

(2) Tax and license fee revenues derived from this section shall be used only for the services described in KRS 65.660 or 65.662.

(3) The assets and liabilities of the special districts under the jurisdiction of the emergency services board shall be maintained separately, but shall be managed by the emergency services board.

HB 478, AN ACT relating to training for public officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.5275 is amended to read as follows:

(1) The General Assembly of the Commonwealth of Kentucky hereby finds and determines that county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs in all counties are officers whose duties or jurisdictions

are coextensive with that of the Commonwealth within the meaning of Section 246 of the Constitution of Kentucky.

(2) Effective on the first Monday in January of 1999, the maximum salary of county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs shall be fixed by the Department for Local Government according to a salary schedule in accordance with Section 246 of the Kentucky Constitution. The salary schedule provides that these officials, as officers whose jurisdiction or duties are coextensive with the Commonwealth, shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum as adjusted for any increase or decrease in the consumer price index and as described in subsection (4) of this section.

(3) The salary schedule for county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs in all counties provides for nine (9) levels of salary based upon the population of the county in the year prior to the election of county officials as determined by the United States Department of Commerce, Bureau of the Census's annual estimates. To implement the salary schedule, the Department for Local Government shall, by November 1 of each year preceding the election of county officials, certify for each county the population group applicable to each county based on the most recent estimates of the United States Department of Commerce, Bureau of the Census. For the purposes of this section, the salary schedule for county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs shall remain as determined by the Department for Local Government pursuant to this section, regardless of changes in the population estimates or the actual census count that may occur during the term for which the official has been elected or appointed. The salary schedule provides four (4) steps for yearly increments within each population group. County officers named in this section shall be paid according to the first step within their population group for the first year or portion thereof they serve in office. Thereafter, each officer, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. Prior to assuming office on the first Monday in January, 1999, or thereafter, any person assuming any of the offices for which the salary is determined by this section must certify to the commissioner of the Department for Local Government the total number of years, not to exceed four (4) years, that the person has previously served in the office. The department shall place the officer in the proper step based upon a formula of one (1) incremental step per full calendar year of service:

SALARY SCHEDULE

County Population by Group	Steps and Salary for Affected Officers			
Group I	Step 1	Step 2	Step 3	Step 4
0-4,999	$ 6,600	$ 6,800	$ 7,000	$ 7,200
Group II				
5,000-9,999	7,200	7,400	7,600	7,800
Group III				
10,000-19,999	7,800	8,000	8,200	8,400
Group IV				
20,000-29,999	8,100	8,400	8,700	9,000
Group V				
30,000-44,999	8,700	9,000	9,300	9,600
Group VI				
45,000-59,999	9,000	9,400	9,800	10,200
Group VII				
60,000-89,999	9,600	10,000	10,400	10,800
Group VIII				
90,000-499,999	9,900	10,400	10,900	11,400
Group IX				
500,000 and up	10,500	11,000	11,500	12,000

(4) Upon publication of the annual consumer price index by the United States Department of Commerce, the Department for Local Government shall fix the salary of the county judge/executive, county clerk, jailer who operates a full service jail, and sheriff at an annual rate of salary to which the county official is entitled pursuant to the increase in the Consumer Price Index and the salary schedule contained in this section. This salary determination shall be retroactive to the preceding January 1.

(5) Notwithstanding any provision contained in this section, no county official holding office on July 15, 1998, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on July 15, 1998.

(6) In addition to the step increases based on service in office, each officer shall be paid an annual incentive of one hundred dollars ($100) per calendar year for each forty (40) hour training unit successfully completed, based on continuing service in that office and, except as provided in this subsection, completion of at least forty (40) hours of approved training in each subsequent calendar year. If an officer fails, without good cause as determined by the commissioner of the Department for

Local Government, to obtain the minimum amount of approved training in any year, the officer shall lose all training incentives previously accumulated. Each training unit shall be approved and certified by the Department for Local Government. No officer shall receive more than one (1) training unit per calendar year nor more than four (4) incentive payments per calendar year. Each officer shall be allowed to carry forward up to forty (40) hours of training credit into the following calendar year for the purpose of satisfying the minimum amount of training for that year. Each annual incentive payment shall be adjusted by the Department for Local Government on an annual basis for any increase or decrease in the consumer price index in the same manner as salaries are adjusted as described in subsection (4) of this section. The Department for Local Government shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish guidelines for the approval and certification of training units.

(7) Except in counties that contain an urban-county form of government, justices of the peace who serve on fiscal courts***,***~~[and]~~ county commissioners***, and jailers who operate life safety facilities or have closed facilities*** shall also be eligible for the training incentive payments in accordance with subsection (6) of this section.

The Committee Substitute to **HB 478** is as follows:

HB 478, AN ACT relating to training for public officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.5275 is amended to read as follows:

(1) The General Assembly of the Commonwealth of Kentucky hereby finds and determines that county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs in all counties are officers whose duties or jurisdictions are coextensive with that of the Commonwealth within the meaning of Section 246 of the Constitution of Kentucky.

(2) Effective on the first Monday in January of 1999, the maximum salary of county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs shall be fixed by the Department for Local Government according to a salary schedule in accordance with Section 246 of the Kentucky Constitution. The salary schedule provides that these officials, as officers whose jurisdiction or duties are coextensive with the Commonwealth, shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum as adjusted for any increase or decrease in the consumer price index and as described in subsection (4) of this section.

(3) The salary schedule for county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs in all counties provides for nine (9) levels of salary based upon the population of the county in the year prior to the election of county officials as determined by the United States Department of Commerce, Bureau of the Census's annual estimates. To implement the salary schedule, the Department for Local Government shall, by November 1 of each year preceding the election of county officials, certify for each county the population group applicable to each county based on the most recent estimates of the United States Department of Commerce, Bureau of the Census. For the purposes of this section, the salary schedule for county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs shall remain as determined by the Department for Local Government pursuant to this section, regardless of changes in the population estimates or the actual census count that may occur during the term for which the official has been elected or appointed. The salary schedule provides four (4) steps for yearly increments within each population group. County officers named in this section shall be paid according to the first step within their population group for the first year or portion thereof they serve in office. Thereafter, each officer, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. Prior to assuming office on the first Monday in January, 1999, or thereafter, any person assuming any of the offices for which the salary is determined by this section must certify to the commissioner of the Department for Local Government the total number of years, not to exceed four (4) years, that the person has previously served in the office. The department shall place the officer in the proper step based upon a formula of one (1) incremental step per full calendar year of service:

SALARY SCHEDULE

County Population by Group	Steps and Salary for Affected Officers			
Group I	Step 1	Step 2	Step 3	Step 4
0-4,999	$ 6,600	$ 6,800	$ 7,000	$ 7,200
Group II				
5,000-9,999	7,200	7,400	7,600	7,800
Group III				
10,000-19,999	7,800	8,000	8,200	8,400
Group IV				
20,000-29,999	8,100	8,400	8,700	9,000
Group V				
30,000-44,999	8,700	9,000	9,300	9,600

Group VI				
45,000-59,999	9,000	9,400	9,800	10,200
Group VII				
60,000-89,999	9,600	10,000	10,400	10,800
Group VIII				
90,000-499,999	9,900	10,400	10,900	11,400
Group IX				
500,000 and up	10,500	11,000	11,500	12,000

(4) Upon publication of the annual consumer price index by the United States Department of Commerce, the Department for Local Government shall fix the salary of the county judge/executive, county clerk, jailer who operates a full service jail, and sheriff at an annual rate of salary to which the county official is entitled pursuant to the increase in the Consumer Price Index and the salary schedule contained in this section. This salary determination shall be retroactive to the preceding January 1.

(5) Notwithstanding any provision contained in this section, no county official holding office on July 15, 1998, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on July 15, 1998.

(6) In addition to the step increases based on service in office, each officer shall be paid an annual incentive of one hundred dollars ($100) per calendar year for each forty (40) hour training unit successfully completed, based on continuing service in that office and, except as provided in this subsection, completion of at least forty (40) hours of approved training in each subsequent calendar year. If an officer fails, without good cause as determined by the commissioner of the Department for Local Government, to obtain the minimum amount of approved training in any year, the officer shall lose all training incentives previously accumulated. Each training unit shall be approved and certified by the Department for Local Government. No officer shall receive more than one (1) training unit per calendar year nor more than four (4) incentive payments per calendar year. Each officer shall be allowed to carry forward up to forty (40) hours of training credit into the following calendar year for the purpose of satisfying the minimum amount of training for that year. Each annual incentive payment shall be adjusted by the Department for Local Government on an annual basis for any increase or decrease in the consumer price index in the same manner as salaries are adjusted as described in subsection (4) of this section. The Department for Local Government shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish guidelines for the approval and certification of training units.

(7) Except in counties that contain an urban-county form of government, justices of the peace who serve on fiscal courts,~~[and]~~ county commissioners***, and jailers who operate life safety jails, jailers who are part of a transportation plan, or jailers who act as court bailiff*** shall also be eligible for the training incentive payments in accordance with subsection (6) of this section.

The Committee Amendment No. 1 Title to **HB 478** is as follows:

Amend title to read, "AN ACT relating to training for jailers.".

HB 521, AN ACT relating to cemeteries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 381.231 is amended to read as follows:

(1) A "trespasser" means any person who enters or goes upon the real estate of another without any right, lawful authority or invitation, either expressed or implied, but does not include persons who come within the scope of the "attractive nuisance" doctrine.

(2) An owner of real estate means any person who possesses any interest in real estate or any lawful occupant of real estate***, including a burial ground***.

(3) "Burial ground" means any public or privately owned parcel of land upon which a person or persons are interred or buried.

Section 2. KRS 381.697 is amended to read as follows:

(1) Every cemetery in Kentucky except private family cemeteries shall be maintained by its legal owner or owners, without respect to the individual owners of burial plots in the cemetery, in such a manner so as to keep the burial grounds or cemetery free of growth of weeds, free from accumulated debris, displaced tombstones or other signs and indication of vandalism or gross neglect.

(2) The owner or owners of public or private burial grounds, regardless of size or number of graves, shall protect the burial grounds from desecration or destruction as stipulated in KRS 525.115(1)(a), (b), or (c) or from being used for dumping grounds, building sites, or any other use which may result in the burial grounds being damaged or destroyed.

HB 533, AN ACT relating to the employment of deputy sheriffs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 70.030 is amended to read as follows:

(1) The sheriff may appoint his own deputies and may revoke the appointment at his pleasure except where that revocation is prohibited by the provisions of KRS 70.260 to 70.273 ***or by paragraph (b) of subsection (4) of this section***. In a county containing a city of the first class with a deputy sheriff merit board, the term of office of a deputy shall continue from sheriff to sheriff unless a deputy is removed according to the provisions of KRS 70.260 to 70.273. Before any deputy executes the duties of his office, he shall take the oath required to be taken by the sheriff.

(2) The sheriff may appoint nonsworn clerical, technical, professional, and support personnel to assist him in the performance of the duties of his office. All nonsworn personnel shall serve at the pleasure of the sheriff.

(3) No sheriff whose county has adopted a deputy sheriff merit board under KRS 70.260 shall appoint a deputy who is a member of the immediate family of the sheriff. The term "member of the immediate family" has the meaning given in KRS 70.260.

(4) ***(a)*** A sheriff's office may, upon the written request of the sheriff, participate in the Kentucky Law Enforcement Foundation Fund Program authorized by KRS 15.410 to 15.510 without the county establishing a deputy sheriff merit board. This subsection shall not prohibit the sheriff from requesting the fiscal court to establish a deputy sheriff merit board.

(b) Deputy sheriffs who receive moneys from the Kentucky Law Enforcement Foundation Fund Program authorized by KRS 15.410 to 15.510, in counties containing a city of the first or second class or counties with an urban-county government, but without a deputy sheriff merit board, shall continue their term of employment when sheriffs are newly elected or appointed. Deputies shall only be removed, suspended, demoted, or reduced in pay for misconduct, insubordination, or a violation of law and in accordance with the provisions of KRS 15.520. However, chief deputies may receive a one (1) step demotion when a new sheriff is elected or appointed.

HB 615, AN ACT relating to community development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 99.340 is amended to read as follows:

The following words or terms shall have the following meanings wherever used in KRS 99.330 to 99.510, unless a different meaning is clearly indicated by the context:

(1) "Slum area" means an area in which there is ***at least one-fourth (1/4) of all***[~~a predominance of~~] buildings or ***a predominance of*** improvements which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, sanitation, or open spaces, high density of population and overcrowding, or any combination of such factors, are unsafe or unfit to occupy***;***[~~,~~] are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency***, or***[~~ and~~] crime***;***[~~,~~] injuriously affect the entire area***; or***[~~, and~~] constitute a menace to the public health, safety and welfare. A slum area may include lands, structures, or improvements; the acquisition of which is necessary in order to assure the proper clearance and redevelopment of the entire area and to prevent the spread or recurrence of slum conditions thereby protecting the public health, safety, and welfare;

(2) "Blighted area" means an area (other than a slum area as defined in this section) where by reason of the predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, submergency of lots by water or other unsanitary or unsafe conditions, deterioration of site improvements, diversity of ownership, tax delinquency, defective or unusual conditions of title, improper subdivision or obsolete platting, or any combination of such reasons, development of such blighted area (which may include some incidental buildings or improvements) into predominantly housing uses is being prevented;

(3) "Redevelopment" means the planning or replanning, design or redesign, acquisition, clearance, development***,***[~~ and~~] disposal, ***rehabilitation, historic preservation,*** or any combination of these, of a development area and the preparation of such area for such residential, commercial, industrial, public, recreational or other structures, works, improvements, facilities or spaces as may be appropriate or necessary. "Redevelopment" and derivatives thereof shall mean develop as well as redevelop;

(4) "Community" means any city or county;

(5) "Mayor" means the mayor of a city or the county judge/executive of a county, or the officer thereof having the duties customarily imposed upon the executive head of a city or county;

(6) "Council" means the legislative authority of a city or the fiscal court of a county;

(7) "Redevelopment project" means any or a combination of one (1) or more of the following:

  (a) Acquisition of a slum area or a blighted area (as defined in this section);

  (b) Demolition***,***[~~ and~~] removal***, rehabilitation, or historic preservation*** of structures and improvements;

  (c) Installation, construction or reconstruction of streets, utilities and other site improvements essential to the preparation of sites for uses in accordance with the development plan; and

(d) Making the land available for development or redevelopment by private enterprise or public bodies for uses in accordance with the development plan;

(8) "Development area" means the area of a redevelopment project;

(9) "Development plan" means a plan for the redevelopment of all or any part of a development area;

(10) "Agency" means a public corporate body created pursuant to KRS 99.350;

(11) "Public body" means any city, county, commission, district authority or other public body or political subdivision of the Commonwealth;

(12) "Area of operation" means:

(a) In the case of a city, the area within the city and the area within five (5) miles of the territorial boundaries thereof, except that the area of operation of a city under KRS 99.330 to 99.510 shall not include any area which lies within the territorial boundaries of another city unless a resolution has been adopted by the council of the other city declaring a need therefor; and

(b) In the case of a county, the area within the county, except that the area of operation of a county shall not include any area which lies within the territorial boundaries of a city unless a resolution has been adopted by the council of the city declaring a need therefor;

(13) "Real property" includes all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens;

(14) "Planning commission" means a city, county or joint city-county planning and zoning commission or a planning commission established pursuant to the provisions of KRS Chapter 100 having authority and responsibility with respect to the area of the community; and

(15) "Bonds" means any bonds, notes, interim certificates, debentures, or other obligations.

Section 2. KRS 99.530 is amended to read as follows:

(1) In addition to its authority under KRS 99.330 to 99.510 an agency is hereby authorized to plan and undertake urban renewal projects. As used in KRS 99.520 to 99.590, an urban renewal project may include undertakings and activities for the prevention of the development or spread of slums or blighted, deteriorated, or deteriorating areas, or the elimination thereof, and may involve any work or undertaking for such purpose constituting a redevelopment project or any rehabilitation or conservation work, or any combination of such undertaking or work. For this purpose, "rehabilitation or conservation work" may include:

(a) Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements;

(b) Acquisition of real property and demolition, removal, ***relocation, historic preservation,*** or rehabilitation of buildings and improvements thereon where necessary to eliminate unhealthful, unsanitary or unsafe conditions***;***[~~,~~] lessen density***;***[~~,~~] reduce traffic hazards***;***[~~,~~] eliminate obsolete or other uses detrimental to the public welfare***;***[~~, or to otherwise~~] remove or prevent the spread of blight or deterioration***;***[~~,~~] or[~~ to~~] provide land ***or buildings, and improvements thereon,*** for needed public facilities;

(c) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of the urban renewal project; and

(d) The disposition, for uses in accordance with the objectives of the urban renewal project, of any property or part thereof acquired in the area of such project; provided that such disposition shall be in the manner prescribed in KRS 99.450 for the disposition of property in a redevelopment project area.

(2) Notwithstanding any other provisions of KRS 99.330 to 99.510 and KRS 99.520 to 99.590, where the local governing body certifies that an area is in need of redevelopment or rehabilitation as a result of a flood, fire, hurricane, earthquake, storm, or other catastrophe respecting which the Governor of the State has certified the need for disaster assistance under Public Law 875, Eighty-First Congress, or other federal law, the local governing body may approve an urban renewal plan and an urban renewal project with respect to such area without regard to any provisions of KRS 99.330 to 99.510 and KRS 99.520 to 99.590, requiring public hearings or requiring that the urban renewal plan conform to a general or master plan for the community as a whole, or that the urban renewal area be a slum area, or a blighted, deteriorated, or deteriorating area, or that the urban renewal area be predominantly residential in character or be developed or redeveloped for residential uses.

The Committee on Elections, Constitutional Amendments and Intergovernmental Affairs reported **HB 586**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 586, AN ACT relating to campaign finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121A.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Registry" means the Kentucky Registry of Election Finance;

(2) "Fund" means the election campaign fund;

(3) "Transfer" means a transfer from the fund to a qualifying slate of candidates;

(4) "Qualifying contribution" means a contribution made to a slate of candidates for Governor and Lieutenant Governor by a natural person, permanent committee, executive committee of a political party, or contributing organization that is authorized to contribute to candidates that is paid by personal check, cashier's check, or money order. A qualifying contribution shall not include a cash contribution, loan, pledge, nonmonetary contribution, or contribution by a slate of candidates in excess of the contribution limits of KRS 121A.050;

(5) "Qualifying slate of candidates" means any slate of candidates of a political party or any independent nominees for Governor and Lieutenant Governor whose names are qualified to appear jointly on a primary or runoff primary election ballot, or candidates who have filed a notification and declaration pursuant to KRS 118.127 who are authorized by this chapter to receive contributions and make expenditures jointly for the regular election, and one (1) that has otherwise qualified under this chapter to receive a transfer from the election campaign fund, including having raised the minimum threshold qualifying amount. "Qualifying slate of candidates," when applied to a runoff primary, means a slate of candidates for Governor and Lieutenant Governor that has been certified by the Secretary of State as one that has received the highest or next highest number of votes for its party's nomination in a primary that filed a statement of intent to accept a transfer from the fund and abide by the expenditure limit for the primary which was not rescinded in a timely manner;

(6) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to KRS 118.127, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other individual to receive contributions or make expenditures, with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;

(7) "Candidate campaign account" means the bank account required by KRS 121.160 to be established, which for a slate of candidates for Governor and Lieutenant Governor shall be in a financial institution authorized to do business in Kentucky which is insured by the Federal Deposit Insurance Corporation and shall be for the sole purpose of receiving transfers from the fund and contributions or other moneys raised from personal resources;

(8) "Campaign expenditures" means lawful expenditures from a candidate campaign account on behalf of a slate of candidates to further its nomination or election to the offices of Governor and Lieutenant Governor authorized by the campaign committee treasurer or other authorized individual;

(9) "Committee" includes the following:

(a) "Campaign committee" which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific slate of candidates for nomination or election to the offices of Governor and Lieutenant Governor;

(b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which will appear on the ballot if that committee receives or expends money in excess of one thousand dollars ($1,000);

(c) "Permanent committee," which means a group of individuals, including an association, committee, or organization, other than a campaign committee or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose expressly advocating the election or defeat of one (1) or more clearly identified candidates, slates of candidates, or political parties and which functions on a regular basis throughout the year;

(d) An executive committee of a political party; and

(e) "Exploratory committee," which means a committee formed by one (1) or more persons which is registered pursuant to KRS 121.170 to accept contributions and make expenditures for the purpose of determining the feasibility of forming a slate of candidates for Governor and Lieutenant Governor or of determining the composition of a slate of candidates for Governor and Lieutenant Governor;

(10) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contribution made by a contributing organization in excess of one

hundred dollars ($100) shall be reported to the registry;

(11) (a) "Contribution" means any:

1. Payment, distribution, loan, deposit, or gift of money or other thing of value, to a slate of candidates, its agent, a committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, slate of candidates, or other primary obligor. No individual shall become liable as surety, endorser, or guarantor for any sum which, when combined with all other contributions the individual makes to the slate of candidates, its agent, the committee, or the contributing organization, exceeds the contribution limits provided in KRS 121.150;

2. Payment by any individual other than the slate of candidates, its authorized treasurer, a committee, or contributing organization of compensation for the personal services of another individual which are rendered to a slate of candidates, committee, or contributing organization;

3. Goods, advertising, or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are furnished to a slate of candidates, committee, or contributing organization without charge, or at a rate which is less than the rate normally charged for such goods or services, if the person furnishing the goods, advertising, or services paid another person for their provision; or

4. Payment by any individual other than the slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are utilized by a slate of candidates, committee, or contributing organization, if the person making the payment paid another person for their utilization.

(b) Notwithstanding the foregoing meanings of "contribution," it shall not be construed to include:

1. Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a slate of candidates, committee, or contributing organization;

2. Expenditures by an individual other than a candidate in connection with an event held in the individual's home when the individual expends less than three hundred dollars ($300);

3. A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; or

4. An independent expenditure by any individual or permanent committee;

(12) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists;[~~ and~~]

(13) "Independent expenditure" means the expenditure of money or other things of value for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, and which is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them, and which is not made in concert with, or at the request or suggestion of any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them***; and***

(14) "Reserve account" means a bank account, separate and distinct from the candidate campaign account, maintained by a participating slate that has received transfers from the fund, for the purpose of retaining qualifying contributions in excess of the maximum threshold qualifying amount in accordance with the provisions of Section 3 of this Act.

Section 2. KRS 121A.020 is amended to read as follows:

(1) There is established a special account of the general fund in the State Treasury to be known as the election campaign fund from which funds may be paid only upon warrants issued by the registry.

(2) The registry shall distribute transfers for the matching of qualifying contributions to a qualifying slate of candidates for Governor and Lieutenant Governor as provided in KRS 121A.080. The transfers shall be paid from moneys derived from appropriations made to the fund for that purpose and moneys transferred to the fund pursuant to KRS 121A.080(6), 118.255(3), and 121A.015(5).

(3) The registry shall report to the General Assembly within three (3) months following an election for Governor and Lieutenant Governor the total amount of transfers from the fund paid to each qualifying slate of candidates for qualifying contributions.

(4) The registry shall preserve all receipted bills and accounts required to be kept by this chapter for a period of six (6) years.

(5) In lieu of the reporting provisions of KRS 121.180(3)(b)1., 2., and 3., all slated candidates' campaign committees, including those of slates of candidates rejecting expenditure limitations, and fundraisers for slated candidates who are registered pursuant to KRS 121.170(2), shall report all contributions and expenditures to the registry ***as follows:***

(a) An initial report shall be filed with the registry not later than five (5) days after the last day of the calendar month following the formation and registration of the committee or registration of the fundraiser***;***

(b) After the filing of the initial report[~~and not later than five (5) days after the last day of each calendar month thereafter~~] until the fifty-six (56) days immediately preceding the primary and regular election of a year in which a

Governor and Lieutenant Governor are elected***, reports shall be filed not later than five (5) days after the last day of each calendar month;***

(c) ***During the fifty-six (56) days immediately preceding the primary and regular election of a year in which a Governor and Lieutenant Governor are elected,***~~[when]~~ reports shall be filed not later than three (3) days after the fifty-sixth, forty-second, twenty-eighth, and fourteenth days preceding the primary or regular election***; and***

(d) ***In addition to all the other reporting requirements of KRS Chapters 121 and 121A, any candidate, slate of candidates, campaign committee, or fundraiser subject to this section shall file a report of any of the following transactions within twenty-four (24) hours after the transaction is made, if made during the twenty-eight (28) days immediately preceding a primary or regular election, or if made during the fourteen (14) days immediately preceding a runoff primary:***

   1. ***Any contribution within the meaning of Section 1 of this Act received from the personal moneys of a member of the slate of candidates;***

   2. ***Any deposit of funds to the slate's campaign account that may be attributed to the personal moneys of a member of the slate of candidates, and, for purposes of this subparagraph, a deposit occurs on the same day that the funds are delivered to the bank where the slate's campaign account is maintained, regardless of the time of day the deposit is made; or***

   3. ***Any expenditure or disbursement authorized, incurred, committed to, reserved for, or made by an authorized agent of any slate of candidates for the purpose of advertising, including the reservation of time or space for the purchase of advertising, from any newspaper, magazine, owner or lessor of billboards, radio or television station or network, direct mail vendor, or other business organization offering communications or advertising services for hire***.

(e) All contributions received by a slate of candidates as of the last day of each reporting period shall be included on the report for that period regardless of whether the contributions have been deposited in the slate's campaign account. Slated candidates participating in a runoff primary and registered fundraisers for slated candidates in a runoff primary shall report all contributions and expenditures to the registry fourteen (14) days before the runoff primary.

(f) All slated candidates and registered fundraisers for slated candidates shall make a report to the registry not later than thirty (30) days following any election in which they participate and shall submit additional reports every thirty (30) days thereafter until all financial obligations of the slate have been fulfilled and the candidate campaign account has been closed in lieu of the reporting provisions of KRS 121.180(4).

(g) All reports required by this subsection shall include all contributions ***received***~~[deposited into]~~ and all expenditures paid from the candidate campaign account as of the close of business on the last day of the reporting period.

(6) After each primary, each runoff primary, and each regular election in a year in which a Governor and Lieutenant Governor are elected, the registry shall conduct a thorough examination and audit of the contributions to and campaign expenditures by any campaign committee of each slate of candidates and issue a separate report on each campaign committee.

(7) The registry shall promulgate administrative regulations and official forms and perform other duties necessary to implement the provisions of this chapter.

Section 3. KRS 121A.060 is amended to read as follows:

(1) ***(a)*** The minimum threshold qualifying amount for a slate of candidates for Governor and Lieutenant Governor in a primary or regular election that elects to be eligible to receive a transfer from the fund shall be three hundred thousand dollars ($300,000) in qualifying contributions and the maximum threshold qualifying amount for a primary or regular election shall be six hundred thousand dollars ($600,000) in qualifying contributions for any one (1) election. Not more than fifty percent (50%) of a threshold qualifying amount shall be received from residents of the same congressional district.~~[No qualifying slate of candidates shall accept qualifying contributions in any one (1) election which in the aggregate exceed the maximum threshold qualifying amount unless a qualifying slate of candidates has been released from expenditure limitations pursuant to KRS 121A.080(4) or (5).]~~

(b) A qualifying slate ***that has received a transfer from the fund that***~~[which]~~ discovers that it has received qualifying contributions in excess of the maximum threshold qualifying amount shall, without penalty, ***make a binding election within three (3) days after the contributions are received to either:***

   1. Dispose of qualifying contributions received after the maximum threshold qualifying amount was reached by returning the excess contributions to the contributors***;***

   2. ***Retain the contributions in excess of the maximum threshold amount up to the expenditure limit provided in KRS 121A.030(1); or***

   3. ***Place the contributions in a reserve account***.

(c) ***If the qualifying slate elects to return***~~[The]~~ excess contributions~~[returned]~~ to the contributors ***under subparagraph 1. of paragraph (b) of this subsection, the contributions*** shall not be considered as qualifying contributions and shall not be matched by transfers from the fund.

(d) If the qualifying slate elects to retain the contributions under subparagraph 2. of paragraph (b) of this subsection, any matching funds to which it is entitled from the campaign election fund shall be reduced, dollar for dollar, by the amount of retained contributions that exceeds the maximum threshold amount.

(e) If the qualifying slate elects to place the contributions in a reserve account under paragraph (b)3. of this subsection, then those funds shall remain in the reserve account until the registry determines under KRS 121A.080 that a slate that has not accepted the provisions of this chapter has exceeded the contribution or expenditure limit under KRS 121A.030(1), at which time the qualifying slate may transfer the reserve account funds to the campaign account, and the funds shall then become qualifying contributions for purposes of receiving matching transfers from the election campaign fund. If the registry makes no determination under KRS 121A.080 that a slate that has not accepted the provisions of this chapter has exceeded the contribution or expenditure limit under KRS 121A.030(1), the qualifying slate shall return all excess contributions in the reserve account to the contributors, except as provided in paragraph (f) of this subsection.

(f) If a qualifying slate wins the primary nomination and has a reserve account balance at the end of the primary election, the slate may transfer funds from the reserve account to the campaign account, up to the maximum qualifying threshold contribution limit, and those funds may then become qualifying contributions for purposes of receiving transfers from the election campaign fund for the regular election. Any remaining balance shall be retained in the reserve account under paragraph (e) of this subsection.

(g) After the expenditure limit amounts are adjusted under KRS 121A.030(1) in accordance with the consumer price index for all urban workers, the threshold qualifying amounts shall be increased or decreased accordingly. The adjusted maximum threshold qualifying amount shall be one-third (1/3) of the adjusted expenditure limit amount for a primary or regular election campaign, and the adjusted minimum threshold qualifying amount shall be one-half (1/2) of the adjusted maximum threshold qualifying amount. The registry shall make the adjustments in the threshold qualifying amounts in a year in which a Governor and Lieutenant Governor are elected not later than the filing deadline for the primary election.

(2) In order to become a qualifying slate of candidates for the purpose of receiving a transfer from the fund in a primary or regular election, or both, a slate of candidates shall request certification from the registry in a form and in the manner which the registry shall prescribe by administrative regulations promulgated in accordance with this chapter.

(3) The registry shall immediately review the request of a slate of candidates for certification to receive a transfer from the fund. The request for certification shall include:

(a) A statement of intent accepting maximum expenditure limitations;

(b) A copy of the slate's nomination papers;

(c) The financial reports filed by or on behalf of the slate of candidates as of the date of the request for certification which indicate that the slate of candidates has raised a threshold qualifying amount in individual qualifying contributions for a transfer from the fund at a two (2) for one (1) matching ratio; and

(d) Any other information reasonably necessary that is required by the registry.

(4) The registry shall certify whether a slate of candidates is eligible to receive a primary election transfer no later than seven (7) working days after the slate submits the required documentation.

(5) The registry shall certify whether a slate of candidates is eligible to receive a regular election transfer not later than seven (7) working days after the slate submits the required documentation; except that if the slate is required to take part in a primary election, the results of the primary election shall have been certified by the registry.

(6) A separate determination and certification shall be made for a primary and a regular election.

(7) The certification issued by the registry shall indicate:

(a) Whether a slate of candidates is eligible to receive a transfer; and

(b) The amount of fund transfers the slate of candidates is eligible to receive based on the amount of qualifying contributions that the slate has received at the time that it requests a transfer eligibility certification.

(8) A slate of candidates may make multiple requests for fund transfer eligibility certification in the course of a primary or regular election at the times and in the manner which the registry shall prescribe by administrative regulation.

(9) If a slate of candidates that has filed a statement of intent to accept a transfer is not eligible to receive a transfer, the certification shall:

(a) State the reasons why the slate of candidates is not eligible to receive a transfer; and

(b) What action, if any, the slate of candidates may take to qualify for a transfer.

(10) A slate of candidates may file with the registry a written request to review the determination of the registry no later than seven (7) calendar days after the date of certification. The registry shall issue a ruling not later than ten (10) days after receiving a request to review its determination.

(11) A slate of candidates denied certification by the registry may appeal an adverse ruling within twenty (20) days by filing a notice of appeal in the Court of Appeals in accordance with the Rules of Civil Procedure and the appeal of a ruling by the

registry shall be advanced on the docket to permit a timely decision.

(12) No threshold qualifying amount shall be required for a slate of candidates participating in a runoff primary. A qualifying slate of candidates shall be certified to receive a fund transfer for the runoff primary, if one shall be held, upon the registry's certification that the qualifying slate of candidates received the highest or next highest number of votes for its party's nomination for Governor and Lieutenant Governor at the primary election or that a qualifying slate of candidates was determined by lot to be eligible to participate in a runoff primary pursuant to KRS 118.245(6).

(13) No qualifying slate of candidates seeking its party's nomination for Governor and Lieutenant Governor shall be eligible to receive transfers from the fund in a primary or regular election unless at least one (1) opposing slate of candidates has received and deposited in its candidate campaign account funds in an amount not less than the minimum threshold qualifying amount established in subsection (1) of this section. After this requirement has been met in a primary or regular election, qualifying slates may independently qualify for subsequent transfers in that election without regard to the ability of another qualifying slate in that election to qualify for subsequent transfers in that election.

(14) Nothing in this section shall prohibit a qualifying slate from raising more than the maximum threshold amount of contributions for any one (1) election if no opposing slate has raised the minimum threshold qualifying amount of contributions for that election. If no opposing slate receives the minimum threshold amount of contributions, then the qualifying slate is released from the maximum contribution limit.

Section 4. KRS 121A.070 is amended to read as follows:

(1) All transfers received from the fund by a qualifying slate of candidates and all contributions or personal resources of any slate of candidates to be used for campaign expenditures shall be deposited in the candidate campaign account.

(2) For each deposit of a contribution of any amount from a permanent committee to a slate of candidates for Governor and Lieutenant Governor made in the slate's campaign account, there shall be retained by the campaign treasurer a short statement, in the form prescribed by the registry, showing:

(a) The amount of each permanent committee's contribution deposited;

(b) The date each permanent committee's contribution was received; and

(c) The name and business address of the permanent committee and a description of the major business, social, or political interest represented by the permanent committee.

(3) For each deposit of funds received, other than contributions by permanent committees, in excess of one hundred dollars ($100) made in the account of any slate of candidates for Governor and Lieutenant Governor, there shall be retained by the campaign treasurer a short statement, in the form prescribed by the registry, showing:

(a) The amount of each contribution or amount of personal resources deposited;

(b) The date each contribution was received or each amount of personal resources was made available; and

(c) The name, address, and, in the case of individuals, occupation and employer of each contributor and the spouse of the contributor, and, if a contribution is made from the personal resources of the slate of candidates, the banks and account numbers from which the funds were transferred. The occupation listed for each contributor shall be specific. A general classification, such as "businessman," shall be insufficient. If the contributor or the spouse of the contributor is self-employed, the name under which he is doing business shall be listed.

(4) The slate of candidates shall designate in writing, to be filed with the registry, not more than three (3) individuals who shall be authorized, in addition to the slate, to withdraw funds from the candidate campaign account.

(5) No individual authorized to make withdrawals from the candidate campaign account shall pay any amount out of the account for goods or services furnished, other than staff salaries, except upon the presentation of an invoice submitted by the person to whom the payment is to be made. The invoice shall describe disbursements to persons, the name, address, occupation, and employer of each person, and the date and the amount disbursed. These invoices shall be preserved by the slate of candidates and made available for reasonable inspection and auditing by employees of the registry.

(6) Any interest earned on any deposits made to the candidate campaign account of a qualifying slate, regardless of the source of the funds, shall not count toward a qualifying slate's maximum contribution threshold limitations or its aggregate expenditure limitations.

The Committee Substitute to **HB 586** is as follows:

HB 586, AN ACT relating to campaign finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121A.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Registry" means the Kentucky Registry of Election Finance;

(2) "Fund" means the election campaign fund;

(3) "Transfer" means a transfer from the fund to a qualifying slate of candidates;

(4) "Qualifying contribution" means a contribution made to a slate of candidates for Governor and Lieutenant Governor by a natural person, permanent committee, executive committee of a political party, or contributing organization that is authorized to contribute to candidates that is paid by personal check, cashier's check, or money order. A qualifying contribution shall not include a cash contribution, loan, pledge, nonmonetary contribution, or contribution by a slate of candidates in excess of the contribution limits of KRS 121A.050;

(5) "Qualifying slate of candidates" means any slate of candidates of a political party or any independent nominees for Governor and Lieutenant Governor whose names are qualified to appear jointly on a primary or runoff primary election ballot, or candidates who have filed a notification and declaration pursuant to KRS 118.127 who are authorized by this chapter to receive contributions and make expenditures jointly for the regular election, and one (1) that has otherwise qualified under this chapter to receive a transfer from the election campaign fund, including having raised the minimum threshold qualifying amount. "Qualifying slate of candidates," when applied to a runoff primary, means a slate of candidates for Governor and Lieutenant Governor that has been certified by the Secretary of State as one that has received the highest or next highest number of votes for its party's nomination in a primary that filed a statement of intent to accept a transfer from the fund and abide by the expenditure limit for the primary which was not rescinded in a timely manner;

(6) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to KRS 118.127, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other individual to receive contributions or make expenditures, with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;

(7) "Candidate campaign account" means the bank account required by KRS 121.160 to be established, which for a slate of candidates for Governor and Lieutenant Governor shall be in a financial institution authorized to do business in Kentucky which is insured by the Federal Deposit Insurance Corporation and shall be for the sole purpose of receiving transfers from the fund and contributions or other moneys raised from personal resources;

(8) "Campaign expenditures" means lawful expenditures from a candidate campaign account on behalf of a slate of candidates to further its nomination or election to the offices of Governor and Lieutenant Governor authorized by the campaign committee treasurer or other authorized individual;

(9) "Committee" includes the following:

(a) "Campaign committee" which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific slate of candidates for nomination or election to the offices of Governor and Lieutenant Governor;

(b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which will appear on the ballot if that committee receives or expends money in excess of one thousand dollars ($1,000);

(c) "Permanent committee," which means a group of individuals, including an association, committee, or organization, other than a campaign committee or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose expressly advocating the election or defeat of one (1) or more clearly identified candidates, slates of candidates, or political parties and which functions on a regular basis throughout the year;

(d) An executive committee of a political party; and

(e) "Exploratory committee," which means a committee formed by one (1) or more persons which is registered pursuant to KRS 121.170 to accept contributions and make expenditures for the purpose of determining the feasibility of forming a slate of candidates for Governor and Lieutenant Governor or of determining the composition of a slate of candidates for Governor and Lieutenant Governor;

(10) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contribution made by a contributing organization in excess of one hundred dollars ($100) shall be reported to the registry;

(11) (a) "Contribution" means any:

1. Payment, distribution, loan, deposit, or gift of money or other thing of value, to a slate of candidates, its agent, a committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, slate of candidates, or other primary obligor. No individual shall become liable as surety, endorser, or guarantor for any sum which, when combined with all other contributions the individual makes to the slate of candidates, its agent, the committee, or the contributing organization, exceeds the contribution limits provided in KRS 121.150;

2. Payment by any individual other than the slate of candidates, its authorized treasurer, a committee, or contributing organization of compensation for the personal services of another individual which are

rendered to a slate of candidates, committee, or contributing organization;

3. Goods, advertising, or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are furnished to a slate of candidates, committee, or contributing organization without charge, or at a rate which is less than the rate normally charged for such goods or services, if the person furnishing the goods, advertising, or services paid another person for their provision; or

4. Payment by any individual other than the slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are utilized by a slate of candidates, committee, or contributing organization, if the person making the payment paid another person for their utilization.

(b) Notwithstanding the foregoing meanings of "contribution," it shall not be construed to include:

1. Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a slate of candidates, committee, or contributing organization;

2. Expenditures by an individual other than a candidate in connection with an event held in the individual's home when the individual expends less than three hundred dollars ($300);

3. A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; or

4. An independent expenditure by any individual or permanent committee;

(12) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists;[~~ and~~]

(13) "Independent expenditure" means the expenditure of money or other things of value for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, and which is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them, and which is not made in concert with, or at the request or suggestion of any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them***; and***

(14) "Reserve account" means a bank account, separate and distinct from the candidate campaign account, maintained by a participating slate that has received transfers from the fund, for the purpose of retaining qualifying contributions in excess of the maximum threshold qualifying amount in accordance with the provisions of Section 3 of this Act.

Section 2. KRS 121A.020 is amended to read as follows:

(1) There is established a special account of the general fund in the State Treasury to be known as the election campaign fund from which funds may be paid only upon warrants issued by the registry.

(2) The registry shall distribute transfers for the matching of qualifying contributions to a qualifying slate of candidates for Governor and Lieutenant Governor as provided in KRS 121A.080. The transfers shall be paid from moneys derived from appropriations made to the fund for that purpose and moneys transferred to the fund pursuant to KRS 121A.080(6), 118.255(3), and 121A.015(5).

(3) The registry shall report to the General Assembly within three (3) months following an election for Governor and Lieutenant Governor the total amount of transfers from the fund paid to each qualifying slate of candidates for qualifying contributions.

(4) The registry shall preserve all receipted bills and accounts required to be kept by this chapter for a period of six (6) years.

(5) In lieu of the reporting provisions of KRS 121.180(3)(b)1., 2., and 3., all slated candidates' campaign committees, including those of slates of candidates rejecting expenditure limitations, and fundraisers for slated candidates who are registered pursuant to KRS 121.170(2), shall report all contributions and expenditures to the registry ***as follows:***

(a) An initial report shall be filed with the registry not later than five (5) days after the last day of the calendar month following the formation and registration of the committee or registration of the fundraiser***;***

(b) After the filing of the initial report[~~and not later than five (5) days after the last day of each calendar month thereafter~~] until the fifty-six (56) days immediately preceding the primary and regular election of a year in which a Governor and Lieutenant Governor are elected***, reports shall be filed not later than five (5) days after the last day of each calendar month;***

(c) During the fifty-six (56) days immediately preceding the primary and regular election of a year in which a Governor and Lieutenant Governor are elected,[~~when~~] reports shall be filed not later than three (3) days after the fifty-sixth, forty-second, twenty-eighth, and fourteenth days preceding the primary or regular election***; and***

(d) In addition to all the other reporting requirements of KRS Chapters 121 and 121A, any candidate, slate of candidates, campaign committee, or fundraiser subject to this section shall file a report of any of the following transactions within twenty-four (24) hours after the transaction is made, if made during the twenty-eight (28) days immediately preceding a primary or regular election, or if made during the fourteen (14) days immediately preceding a runoff primary:

1. Any contribution within the meaning of Section 1 of this Act received from the personal moneys of a

member of the slate of candidates;

2. Any deposit of funds to the slate's campaign account that may be attributed to the personal moneys of a member of the slate of candidates, and, for purposes of this subparagraph, a deposit occurs on the same day that the funds are delivered to the bank where the slate's campaign account is maintained, regardless of the time of day the deposit is made; or

3. Any expenditure or disbursement authorized, incurred, committed to, reserved for, or made by an authorized agent of any slate of candidates for the purpose of advertising, including the reservation of time or space for the purchase of advertising, from any newspaper, magazine, owner or lessor of billboards, radio or television station or network, direct mail vendor, or other business organization offering communications or advertising services for hire.

(e) All contributions received by a slate of candidates as of the last day of each reporting period shall be included on the report for that period regardless of whether the contributions have been deposited in the slate's campaign account. Slated candidates participating in a runoff primary and registered fundraisers for slated candidates in a runoff primary shall report all contributions and expenditures to the registry fourteen (14) days before the runoff primary.

(f) All slated candidates and registered fundraisers for slated candidates shall make a report to the registry not later than thirty (30) days following any election in which they participate and shall submit additional reports ***not later than five (5) days after the last day of each calendar month, except reporting for a period of less than ten (10) days at the end of a calendar month not included in the prior reporting period shall be added to the report for the subsequent calendar month. Additional reporting in this manner shall continue***[~~ every thirty (30) days thereafter~~] until all financial obligations of the slate have been fulfilled and the candidate campaign account has been closed in lieu of the reporting provisions of KRS 121.180(4).

(g) All reports required by this subsection shall include all contributions ***received***[~~deposited into~~] and all expenditures paid from the candidate campaign account as of the close of business on the last day of the reporting period.

(6) After each primary, each runoff primary, and each regular election in a year in which a Governor and Lieutenant Governor are elected, the registry shall conduct a thorough examination and audit of the contributions to and campaign expenditures by any campaign committee of each slate of candidates and issue a separate report on each campaign committee.

(7) The registry shall promulgate administrative regulations and official forms and perform other duties necessary to implement the provisions of this chapter.

Section 3. KRS 121A.060 is amended to read as follows:

(1) ***(a)*** The minimum threshold qualifying amount for a slate of candidates for Governor and Lieutenant Governor in a primary or regular election that elects to be eligible to receive a transfer from the fund shall be three hundred thousand dollars ($300,000) in qualifying contributions and the maximum threshold qualifying amount for a primary or regular election shall be six hundred thousand dollars ($600,000) in qualifying contributions for any one (1) election. Not more than fifty percent (50%) of a threshold qualifying amount shall be received from residents of the same congressional district.[~~ No qualifying slate of candidates shall accept qualifying contributions in any one (1) election which in the aggregate exceed the maximum threshold qualifying amount unless a qualifying slate of candidates has been released from expenditure limitations pursuant to KRS 121A.080(4) or (5).~~]

(b) A qualifying slate ***that has received a transfer from the fund that***[~~which~~] discovers that it has received qualifying contributions in excess of the maximum threshold qualifying amount shall, without penalty, ***make a binding election within three (3) days after the contributions are received to either:***

1. Dispose of qualifying contributions received after the maximum threshold qualifying amount was reached by returning the excess contributions to the contributors***;***

2. Retain the contributions in excess of the maximum threshold amount up to the expenditure limit provided in KRS 121A.030(1); or

3. Place the contributions in a reserve account.

(c) If the qualifying slate elects to return[~~The~~] excess contributions[~~ returned~~] to the contributors ***under subparagraph 1. of paragraph (b) of this subsection, the contributions*** shall not be considered as qualifying contributions and shall not be matched by transfers from the fund.

(d) If the qualifying slate elects to retain the contributions under subparagraph 2. of paragraph (b) of this subsection, any matching funds to which it is entitled from the campaign election fund shall be reduced, dollar for dollar, by the amount of retained contributions that exceeds the maximum threshold amount.

(e) If the qualifying slate elects to place the contributions in a reserve account under paragraph (b)3. of this subsection, then those funds shall remain in the reserve account until the registry determines under KRS 121A.080 that a slate that has not accepted the provisions of this chapter has exceeded the contribution or expenditure limit under KRS 121A.030(1), at which time the qualifying slate may transfer the reserve account funds to the campaign account, and the funds shall then become qualifying contributions for purposes of receiving matching transfers from the election campaign fund. If the registry makes no determination under

KRS 121A.080 that a slate that has not accepted the provisions of this chapter has exceeded the contribution or expenditure limit under KRS 121A.030(1), the qualifying slate shall forward to the registry for deposit in the election campaign fund established under Section 2 of this Act all excess contributions in the reserve account, except as provided in paragraph (f) of this subsection.

(f) ***If a qualifying slate wins the primary nomination and has a reserve account balance at the end of the primary election, the slate may transfer funds from the reserve account to the campaign account, up to the maximum qualifying threshold contribution limit, and those funds may then become qualifying contributions for purposes of receiving transfers from the election campaign fund for the regular election. Any remaining balance shall be retained in the reserve account under paragraph (e) of this subsection.***

(g) After the expenditure limit amounts are adjusted under KRS 121A.030(1) in accordance with the consumer price index for all urban workers, the threshold qualifying amounts shall be increased or decreased accordingly. The adjusted maximum threshold qualifying amount shall be one-third (1/3) of the adjusted expenditure limit amount for a primary or regular election campaign, and the adjusted minimum threshold qualifying amount shall be one-half (1/2) of the adjusted maximum threshold qualifying amount. The registry shall make the adjustments in the threshold qualifying amounts in a year in which a Governor and Lieutenant Governor are elected not later than the filing deadline for the primary election.

(2) In order to become a qualifying slate of candidates for the purpose of receiving a transfer from the fund in a primary or regular election, or both, a slate of candidates shall request certification from the registry in a form and in the manner which the registry shall prescribe by administrative regulations promulgated in accordance with this chapter.

(3) The registry shall immediately review the request of a slate of candidates for certification to receive a transfer from the fund. The request for certification shall include:

(a) A statement of intent accepting maximum expenditure limitations;

(b) A copy of the slate's nomination papers;

(c) The financial reports filed by or on behalf of the slate of candidates as of the date of the request for certification which indicate that the slate of candidates has raised a threshold qualifying amount in individual qualifying contributions for a transfer from the fund at a two (2) for one (1) matching ratio; and

(d) Any other information reasonably necessary that is required by the registry.

(4) The registry shall certify whether a slate of candidates is eligible to receive a primary election transfer no later than seven (7) working days after the slate submits the required documentation.

(5) The registry shall certify whether a slate of candidates is eligible to receive a regular election transfer not later than seven (7) working days after the slate submits the required documentation; except that if the slate is required to take part in a primary election, the results of the primary election shall have been certified by the registry.

(6) A separate determination and certification shall be made for a primary and a regular election.

(7) The certification issued by the registry shall indicate:

(a) Whether a slate of candidates is eligible to receive a transfer; and

(b) The amount of fund transfers the slate of candidates is eligible to receive based on the amount of qualifying contributions that the slate has received at the time that it requests a transfer eligibility certification.

(8) A slate of candidates may make multiple requests for fund transfer eligibility certification in the course of a primary or regular election at the times and in the manner which the registry shall prescribe by administrative regulation.

(9) If a slate of candidates that has filed a statement of intent to accept a transfer is not eligible to receive a transfer, the certification shall:

(a) State the reasons why the slate of candidates is not eligible to receive a transfer; and

(b) What action, if any, the slate of candidates may take to qualify for a transfer.

(10) A slate of candidates may file with the registry a written request to review the determination of the registry no later than seven (7) calendar days after the date of certification. The registry shall issue a ruling not later than ten (10) days after receiving a request to review its determination.

(11) A slate of candidates denied certification by the registry may appeal an adverse ruling within twenty (20) days by filing a notice of appeal in the Court of Appeals in accordance with the Rules of Civil Procedure and the appeal of a ruling by the registry shall be advanced on the docket to permit a timely decision.

(12) No threshold qualifying amount shall be required for a slate of candidates participating in a runoff primary. A qualifying slate of candidates shall be certified to receive a fund transfer for the runoff primary, if one shall be held, upon the registry's certification that the qualifying slate of candidates received the highest or next highest number of votes for its party's nomination for Governor and Lieutenant Governor at the primary election or that a qualifying slate of candidates was determined by lot to be eligible to participate in a runoff primary pursuant to KRS 118.245(6).

(13) No qualifying slate of candidates seeking its party's nomination for Governor and Lieutenant Governor shall be eligible to receive transfers from the fund in a primary or regular election unless at least one (1) opposing slate of candidates has

received and deposited in its candidate campaign account funds in an amount not less than the minimum threshold qualifying amount established in subsection (1) of this section. After this requirement has been met in a primary or regular election, qualifying slates may independently qualify for subsequent transfers in that election without regard to the ability of another qualifying slate in that election to qualify for subsequent transfers in that election.

(14) Nothing in this section shall prohibit a qualifying slate from raising more than the maximum threshold amount of contributions for any one (1) election if no opposing slate has raised the minimum threshold qualifying amount of contributions for that election. If no opposing slate receives the minimum threshold qualifying amount of contributions, then the qualifying slate is released from the maximum threshold qualifying amount of contributions.

Section 4. KRS 121A.070 is amended to read as follows:

(1) All transfers received from the fund by a qualifying slate of candidates and all contributions or personal resources of any slate of candidates to be used for campaign expenditures shall be deposited in the candidate campaign account.

(2) For each deposit of a contribution of any amount from a permanent committee to a slate of candidates for Governor and Lieutenant Governor made in the slate's campaign account, there shall be retained by the campaign treasurer a short statement, in the form prescribed by the registry, showing:

- (a) The amount of each permanent committee's contribution deposited;
- (b) The date each permanent committee's contribution was received; and
- (c) The name and business address of the permanent committee and a description of the major business, social, or political interest represented by the permanent committee.

(3) For each deposit of funds received, other than contributions by permanent committees, in excess of one hundred dollars ($100) made in the account of any slate of candidates for Governor and Lieutenant Governor, there shall be retained by the campaign treasurer a short statement, in the form prescribed by the registry, showing:

- (a) The amount of each contribution or amount of personal resources deposited;
- (b) The date each contribution was received or each amount of personal resources was made available; and
- (c) The name, address, and, in the case of individuals, occupation and employer of each contributor and the spouse of the contributor, and, if a contribution is made from the personal resources of the slate of candidates, the banks and account numbers from which the funds were transferred. The occupation listed for each contributor shall be specific. A general classification, such as "businessman," shall be insufficient. If the contributor or the spouse of the contributor is self-employed, the name under which he is doing business shall be listed.

(4) The slate of candidates shall designate in writing, to be filed with the registry, not more than three (3) individuals who shall be authorized, in addition to the slate, to withdraw funds from the candidate campaign account.

(5) No individual authorized to make withdrawals from the candidate campaign account shall pay any amount out of the account for goods or services furnished, other than staff salaries, except upon the presentation of an invoice submitted by the person to whom the payment is to be made. The invoice shall describe disbursements to persons, the name, address, occupation, and employer of each person, and the date and the amount disbursed. These invoices shall be preserved by the slate of candidates and made available for reasonable inspection and auditing by employees of the registry.

(6) Any interest earned on any deposits made to the candidate campaign account of a qualifying slate, regardless of the source of the funds, shall not count toward a qualifying slate's maximum contribution threshold limitations or its aggregate expenditure limitations.

The Committee on Transportation reported **HB 68**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 68, AN ACT relating to seat belts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.125 is amended to read as follows:

(1) Except as otherwise provided in this section, "motor vehicle" as used in this section means every vehicle designed to carry ten (10) or fewer passengers and used for the transportation of persons, but the term does not include:

- (a) Motorcycles;
- (b) Motor driven cycles; or
- (c) Farm trucks registered for agricultural use only and having a gross weight of one (1) ton or more.

(2) No person shall sell any new ***motor***~~[passenger]~~ vehicle in this state nor shall any person make application for registering a new passenger vehicle in this state unless the front or forward seat or seats have adequate anchors or attachments secured to the floor and/or sides to the rear of the seat or seats to which seat belts may be secured.

(3) Any driver of a motor vehicle, when transporting a child of forty (40) inches in height or less in a motor vehicle operated on the roadways, streets, and highways of this state, shall have the child properly secured in a child restraint system of a

type meeting federal motor vehicle safety standards.

(4) As used in this section, "child restraint system" means any device manufactured to transport children in a motor vehicle which conforms to all applicable federal motor vehicle safety standards.

(5) Failure to wear a child passenger restraint shall not be considered as contributory negligence, nor shall such failure to wear said passenger restraint system be admissible as evidence in the trial of any civil action. Failure of any person to wear a seat belt shall not constitute negligence per se.

(6) No person shall operate a motor vehicle manufactured after 1965 on the public roadways of this state unless the driver and all passengers are wearing a properly adjusted and fastened seat belt, unless the passenger is a child who is secured as required in subsection (3) of this section. The provisions of this subsection shall not apply to:

(a) A person who has in his possession at the time of the conduct in question a written statement from a physician or licensed chiropractor that he is unable, for medical or physical reasons, to wear a seat belt; or

(b) A letter carrier of the United States postal service while engaged in the performance of his duties.

(7)[~~ A peace officer shall not stop or seize a person nor issue a uniform citation for a violation of subsection (6) of this section if the officer has no other cause to stop or seize the person other than a violation of subsection (6) of this section.~~

~~(8)~~] The provisions of ***subsection***[~~subsections~~] (6)[~~ and (7)~~] of this section shall supersede any existing local ordinance involving the use of seat belts. No ordinance contrary to ***subsection***[~~subsections~~] (6)[~~ and (7)~~] of this section may be enacted by any unit of local government.

The Committee Substitute to **HB 68** is as follows:

HB 68, AN ACT relating to seat belts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.125 is amended to read as follows:

(1) Except as otherwise provided in this section, "motor vehicle" as used in this section means every vehicle designed to carry ten (10) or fewer passengers and used for the transportation of persons, but the term does not include:

(a) Motorcycles;

(b) Motor driven cycles; or

(c) Farm trucks registered for agricultural use only and having a gross weight of one (1) ton or more.

(2) No person shall sell any new ***motor***[~~passenger~~] vehicle in this state nor shall any person make application for registering a new passenger vehicle in this state unless the front or forward seat or seats have adequate anchors or attachments secured to the floor and/or sides to the rear of the seat or seats to which seat belts may be secured.

(3) Any driver of a motor vehicle, when transporting a child of forty (40) inches in height or less in a motor vehicle operated on the roadways, streets, and highways of this state, shall have the child properly secured in a child restraint system of a type meeting federal motor vehicle safety standards.

(4) As used in this section, "child restraint system" means any device manufactured to transport children in a motor vehicle which conforms to all applicable federal motor vehicle safety standards.

(5) Failure to wear a child passenger restraint shall not be considered as contributory negligence, nor shall such failure to wear said passenger restraint system be admissible as evidence in the trial of any civil action. Failure of any person to wear a seat belt shall not constitute negligence per se.

(6) No person shall operate a motor vehicle manufactured after 1965 on the public roadways of this state unless the driver and all passengers are wearing a properly adjusted and fastened seat belt, unless the passenger is a child who is secured as required in subsection (3) of this section. The provisions of this subsection shall not apply to:

(a) A person who has in his possession at the time of the conduct in question a written statement from a physician or licensed chiropractor that he is unable, for medical or physical reasons, to wear a seat belt; or

(b) A letter carrier of the United States postal service while engaged in the performance of his duties.

(7)[~~ A peace officer shall not stop or seize a person nor issue a uniform citation for a violation of subsection (6) of this section if the officer has no other cause to stop or seize the person other than a violation of subsection (6) of this section.~~

~~(8)~~] The provisions of ***subsection***[~~subsections~~] (6)[~~ and (7)~~] of this section shall supersede any existing local ordinance involving the use of seat belts. No ordinance contrary to ***subsection***[~~subsections~~] (6)[~~ and (7)~~] of this section may be enacted by any unit of local government.

Section 2. Between the effective date of this Act and July 1, 2004, all law enforcement agencies in this state shall be required to issue a courtesy warning rather than a citation to persons who violate subsection (6) of Section 1 of this Act. The courtesy warning shall not include a fine or any other penalty but shall inform the violator of the amount of the fine that will be assessed for a violation of subsection (6) of Section 1 of this Act and the date the courtesy warnings will end. The courtesy warning shall also include educational materials on the benefits of complying with subsection (6) of Section 1 of this Act.

The Committtee on Transportation reported **HB 188**, with Committee Substitutes attached thereto with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee Substitute No. 2 to **HB 188** is as follows:

HB 188, AN ACT relating to protecting the public safety when licensing an operator of a motor vehicle.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.010 is amended to read as follows:

(1) "Cabinet," as used in KRS 186.400 to 186.640, means the Transportation Cabinet; except as specifically designated, "cabinet," as used in KRS 186.020 to 186.270, means the Transportation Cabinet only with respect to motor vehicles, other than commercial vehicles; "cabinet," as used in KRS 186.020 to 186.270, means the Department of Vehicle Regulation when used with respect to commercial vehicles.

(2) "Highway" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license, or privilege, for the purpose of vehicular traffic.

(3) "Manufacturer" means any person engaged in manufacturing motor vehicles who will, under normal conditions during the year, manufacture or assemble at least ten (10) new motor vehicles.

(4) "Motor vehicle" means in KRS 186.020 to 186.260, all vehicles, as defined in paragraph (a) of subsection (8) of this section, which are propelled otherwise than by muscular power. As used in KRS 186.400 to 186.640, it means all vehicles, as defined in paragraph (b) of subsection (8) of this section, which are self-propelled. "Motor vehicle" shall not include a moped as defined in this section.

(5) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

(6) "Operator" means any person in actual control of a motor vehicle upon a highway.

(7) (a) "Owner" means a person who holds the legal title of a vehicle or a person who pursuant to a bona fide sale has received physical possession of the vehicle subject to any applicable security interest.

(b) A vehicle is the subject of an agreement for the conditional sale or lease, with the vendee or lessee entitled to possession of the vehicle, upon performance of the contract terms, for a period of three hundred sixty-five (365) days or more and with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, the conditional vendee or lessee or mortgagor shall be deemed the owner.

(c) A licensed motor vehicle dealer who transfers physical possession of a motor vehicle to a purchaser pursuant to a bona fide sale, and complies with the requirements of KRS 186A.220, shall not be deemed the owner of that motor vehicle solely due to an assignment to his dealership or a certificate of title in the dealership's name. Rather, under these circumstances, ownership shall transfer upon delivery of the vehicle to the purchaser, subject to any applicable security interest.

(8) (a) "Vehicle," as used in KRS 186.020 to 186.260, includes all agencies for the transportation of persons or property over or upon the public highways of this Commonwealth and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the city limit of any municipality.

(b) As used in KRS 186.400 to 186.640, "vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human and animal power or used exclusively upon stationary rails or tracks, or which derives its power from overhead wires.

(9) KRS 186.020 to 186.270 apply to motor vehicle licenses. KRS 186.400 to 186.640 apply to operator's licenses.

(10) "Dealer" means any person engaging in the business of buying or selling motor vehicles.

(11) "Commercial vehicles" means all motor vehicles that are required to be registered under the terms of KRS 186.050, but not including vehicles primarily designed for carrying passengers and having provisions for not more than nine (9) passengers (including driver), motorcycles, sidecar attachments, pickup trucks and passenger vans which are not being used for commercial or business purposes, and motor vehicles registered under KRS 186.060.

(12) "Resident" means any person who has ***established Kentucky as his or her state of domicile. Proof of residency shall include, but not be limited to, a deed or property tax bill, utility agreement or utility bill, or rental housing agreement***~~[taken up a place of abode within this state; or any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date on which his motor vehicle is registered~~

~~or required to be registered in Kentucky; or any person maintaining a place of abode in this state for gainful employment; provided, however, that the Transportation Cabinet may promulgate administrative regulations exempting any person temporarily maintaining a place of abode in Kentucky, including a full-time student at Kentucky colleges and universities, from any requirement imposed by this chapter upon residents as defined in this chapter]~~. The possession by an operator of a vehicle of a valid Kentucky operator's license shall be prima-facie evidence that the operator is a resident of Kentucky.

(13) "Instruction permit" includes both motor vehicle instruction permits and motorcycle instruction permits.

(14) "Motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more that three (3) wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride in an enclosed cab and excluding a moped as defined in this section.

SECTION 2. A NEW SECTION OF KRS 186.400 TO 186.640 IS CREATED TO READ AS FOLLOWS:

(1) A licensed driver who becomes a Kentucky resident shall, within thirty (30) days of establishing residency, apply for a Kentucky operator's license in the office of the circuit clerk in the county where the person has established his or her domicile.

(2) The circuit clerk shall, before issuing a person a Kentucky operator's license, verify through the National Drivers Register that the person applying for a Kentucky operator's license does not currently have his or her operator's license or driving privilege suspended or revoked in another licensing jurisdiction.

(3) A person who is not a United States citizen but who has been granted permanent resident status by the United States Department of Justice, Immigration and Naturalization Service, and who is a Kentucky resident, shall follow the same procedures for applying for an original, renewal, transfer, or duplicate operator's license as persons who are United States citizens.

Section 3. KRS 186.410 is amended to read as follows:

(1) Every person except those exempted by KRS 186.420 and 186.430 shall before operating a motor vehicle, motorcycle, or moped upon a highway secure an operator's license as provided in this chapter.

(2) ***Except as provided in Section 4 of this Act,*** all original, renewal, and duplicate licenses for the operation of motor vehicles, motorcycles, or mopeds shall be issued by the ***circuit clerk in the county of the applicant's residence***~~[Transportation Cabinet]~~. Applications for renewal licenses shall be made every four (4) years within~~[thirty (30) days after]~~ the birth ***month***~~[date]~~ of the applicant. A license shall not be issued until the application has been certified by the cabinet.

(3) All color photo nondriver identification cards shall be ***issued under the provisions of Section 4 of this Act***~~[valid for four (4) years from the date of issuance]~~.

(4) A person may, at any time between the age of sixteen (16) and ***before the person's eighteenth birthday***~~[eighteen (18)]~~, enroll in one (1) of the following driver training programs:

(a) ~~[The person may enroll in]~~A driver's education course administered by a school district;~~[or]~~

(b) ~~[The person may enroll in]~~A driver training school licensed pursuant to KRS Chapter 332 which offers a course meeting or exceeding the minimum standards established by the Transportation Cabinet; or

(c) ***State traffic school.*** The person may seek to enroll in state traffic school before the person's eighteenth birthday. Persons enrolling in state traffic school pursuant to this paragraph shall not be required to pay a fee.

(5) If, for any reason, a person fails to successfully complete the required driver training pursuant to subsection (4) of this section within one (1) year of being issued an operator's license, the Transportation Cabinet shall enroll the person in state traffic school and cancel or suspend the operator's driving privileges until the person completes state traffic school.

Section 4. KRS 186.412 is amended to read as follows:

(1) A person under the age of twenty-one (21) at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least thirty (30) days.

(2) Except as provided in subsection (3) of this section, a~~[The]~~ person shall apply for an operator's license in the office of the circuit clerk of the county where ***the person***~~[he]~~ lives. The application form shall require the ***person's:***~~[applicant's]~~

(a) Full legal name and signature***;***~~[,]~~

(b) Date of birth***;***~~[,]~~

(c) Social Security number***, federal tax identification number, or a letter from the Social Security Administration declining to issue a Social Security number;***~~[,]~~

(d) Sex***;***~~[,]~~

(e) Present ***Kentucky*** resident address***, exclusive of a post office box address alone;***~~[,]~~

(f) Other information necessary to permit the application ***of United States citizens*** to also serve as an application for voter registration***;***[~~, and~~]

(g) ***A*** brief physical description of the applicant***;***

(h) A statement if the person has previously been licensed as an operator in another state;

(i) Proof of the person's Kentucky residency including, but not limited to, a deed or property tax bill, utility agreement or utility bill, or rental housing agreement; and

(j) Other information the cabinet may require by administrative regulation promulgated under KRS Chapter 13A.

(3) If the person is not a United States citizen and has not been granted status as a permanent resident of the United States, the person's application for an original or initial renewal of an operator's license shall be submitted to either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office. The application form shall be accompanied by the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, authorizing the person to be in the United States and, if applicable, the person's international driving permit. The Transportation Cabinet shall, within fifteen (15) days of receipt of the application, review the person's documentation and determine if the person will be issued a Kentucky operator's license. If the review of an application will take longer than fifteen (15) days, the cabinet shall continue the review, but the cabinet shall be required to make a determination in all cases within thirty (30) days of receipt of the application. If the cabinet determines the person may be issued an operator's license, the cabinet shall issue the person an official form that the person shall take to the office of the circuit clerk of the county where the person resides. The circuit clerk shall review the person's documentation and the official form issued by the Transportation Cabinet. If the documentation is verified as accurate, and if the person successfully completes the examinations required under Section 9 of this Act, the circuit clerk shall issue the person a Kentucky operator's license. A person who is not a United States citizen and who has not been granted status as a permanent resident of the United States shall upon the second and subsequent renewal of an operator's license apply for a renewal, or duplicate operator's license, in the office of the circuit clerk in the county in which the person resides[~~ If the person is not a United States citizen, the application form shall be accompanied by a photographic copy of the person's employment authorization card, visa card to enter the United States, or permanent residency card issued by the United States Department of Immigration Services and, if applicable, a photographic copy of the person's international driving permit. All applications shall state:~~

~~(a) If the applicant has previously been licensed as an operator and by what nation or state; and~~

~~(b) Other information the cabinet may require by administrative regulation promulgated pursuant to KRS Chapter 13A~~].

(4)[~~(2)~~] The ***circuit clerk***[~~Transportation Cabinet~~] shall issue ***an***[~~a plastic laminated~~] operator's license bearing a color photograph of the applicant ***and other information the cabinet may deem appropriate***. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the application simultaneously[~~, using the process determined under provisions of KRS 186.413~~]. When taking the photograph, the applicant shall be prohibited from wearing sunglasses or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses or other attire prohibited by this section as directed by the clerk shall be prohibited from receiving an operator's license. The[~~ plastic laminated~~] operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. ***If an applicant does not have a Social Security number, the Transportation Cabinet shall assign the applicant a unique identifying number.*** The license shall also designate by color coding and use the phrase "under 21" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).

(5)[~~(3)~~] Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(6) (a) Except as provided in subsection (7) of this section,[~~(4) The clerk may, after determining that the applicant has fully complied with the law governing applications, issue a temporary operator's license to be valid for not more than ninety (90) days. The temporary license shall be valid in lieu of the permanent license during the certification period and shall be destroyed upon receipt of the permanent operator's license.~~

~~(5)~~] the circuit clerk shall issue a color photo nondriver's identification card to any person who ***is a Kentucky resident and who*** resides in the county who ***complies with the provisions of this section and who*** applies in person in the office of the circuit clerk.[~~ A nondriver's identification card shall be subject to the provisions of this section.~~] An application for a nondriver's identification card shall be accompanied by ***the same information as is required for an operator's license under subsection (2) of this section***[~~a signed Social Security card and a birth certificate, or other proof of the applicant's date of birth provided under subsection (1) of this section. If the person is not a United States citizen, an application for a nondriver's identification card shall be accompanied by a photographic copy of the person's employment authorization card, visa card to enter the United States, or permanent residency card issued by the United States Department of Immigration Services~~].

(b) It shall be permissible for the application form for a nondriver's identification card to include as a person's

most current resident address[~~The application shall require the applicant to provide his or her full legal name and most current resident address that may include, but is not limited to,~~] a mailing address, post office box, or an address provided on a voter registration card. [~~If an applicant for a nondriver's identification card is under the age of twenty-one (21), the applicant's most current resident address shall be required unless a current resident address is not available, in which case a mailing address, post office box, or an address provided on a voter registration card may be used.~~]

(c) Every applicant for a nondriver's identification card shall make an oath to the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the legal *owner*[~~possessor~~] of the address provided on the application form, the applicant shall *provide the clerk a notarized affidavit with a raised seal affixed thereto attesting*[~~swear~~] that he *or she* has permission from the legal *owner or authorized agent for the legal owner*[~~possessor~~] to use the address for purposes of obtaining the nondriver's identification card. *The affidavit shall also contain the signature of the legal owner or authorized agent for the legal owner.* The nondriver's identification card shall designate by color coding and by use of the phrase "under 21" if the applicant is under the age of twenty-one (21).

(d) A nondriver's identification card shall be valid for a period of four (4) years from the date of issuance. Except as provided in this subsection, an initial or renewal nondriver's identification card issued to a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States, but who is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of Justice, Immigration and Naturalization Service, is issued or four (4) years, whichever time period is shorter. An initial or renewal nondriver's identification card shall be valid for a period of two (2) years if the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular nondriver's identification card.

(e) A nondriver's identification card may be suspended or revoked if the person who was issued the card presents false or misleading information to the cabinet when applying for the card.

(7) A person shall not be eligible to be issued a nondriver's identification card if the person currently holds a valid Kentucky instruction permit or operator's license. If a person's instruction permit or operator's license has been suspended or revoked, the person may be issued a temporary nondriver's identification card. A temporary nondriver's identification shall be renewed annually and shall be surrendered when the person applies to have his or her instruction permit or operator's license reinstated.

(8)[~~(6) Licensed drivers temporarily out of county may be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."~~

~~(7)~~] If a citizen of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, the citizen may renew a Class D operator's license issued under this section by mail. If the citizen was issued an "under 21" operator's license, upon the date of his or her twenty-first birthday, the "under 21" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21".

(9)[~~(8)~~] A citizen of the Commonwealth renewing an operator's license by mail under subsection *(8)*[~~(7)~~] of this section may have a personal designee apply to the circuit clerk on behalf of the citizen to renew the citizen's operator's license. An operator's license being renewed by mail under subsection *(8)*[~~(7)~~] of this section shall be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature".

(10)[~~(9)~~] If a citizen of the Commonwealth has been serving in the United States military and has allowed his operator's license to expire, he shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his license without having to take a written test or road test. A citizen who does not renew his license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired. If a citizen of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the person is unable to renew the license on the date of his twenty-first birthday, the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.

(11)[~~(10)~~] The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:

(a) Blood type;

(b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and

(c) A statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.195.

(12)[~~(11)~~] If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, he may apply for and shall receive, for a fee of one dollar ($1) paid to the circuit clerk, a medical insignia decal that may be affixed to the

lower left side of the front windshield of a motor vehicle.

(13)[~~(12)~~] An operator's license pursuant to this section shall be designated a Class D license.

(14)[~~(13)~~] A person shall not have more than one (1) license.

(15)[~~(14)~~] Upon marriage, a woman applying for an operator's license or a color photo nondriver's identification card shall provide the circuit clerk with her marriage license and complete an affidavit form provided by the circuit court clerk. She shall have the following choices in regard to her full legal name as required in subsections *(2)*[~~(1)~~] and *(6)*[~~(5)~~] of this section:

(a) Use her husband's last name;

(b) Retain her maiden name;

(c) Use her maiden name hyphenated with her husband's last name;

(d) Use her maiden name as a middle name and her husband's last name as her last name; or

(e) In the case of a previous marriage, retain that husband's last name.

Section 5. KRS 186.430 is amended to read as follows:

(1) ***Except as provided in subsection (2) of this section, a person over the age of sixteen (16) who is a United States citizen and who is not a resident of Kentucky may drive in Kentucky for a period of time not to exceed one (1) year from the date the person enters Kentucky if:***

(a) The person possesses a valid license issued by the person's home state;

(b) The person has the license in his or her immediate possession at all times when operating a vehicle on the highways; and

(c) The person's home state[~~A nonresident over the age of sixteen (16) who has been licensed as an operator in his home state or country and who has a valid operator's license certificate in his immediate possession may drive a motor vehicle, motorcycle, or moped upon Kentucky highways without a Kentucky instruction permit or operator's license, if his own state or country~~] accords similar privileges to licensed residents of Kentucky.

(2) ***A person who is a United States citizen but who is not a resident of Kentucky who is enrolled as a full-time or part-time student at a university, college, or technical college located in Kentucky may drive in Kentucky on a valid license issued by the person's state of domicile, and shall not be required to obtain a Kentucky operator's license under this chapter if the person has a student identification card from a university, college, or technical college located in Kentucky in his or her immediate possession at all times when driving in Kentucky.***

(3) A person over the age of sixteen (16) who is not a United States citizen and who is legally visiting this country for less than one (1) year may drive in Kentucky on a valid domestic license issued by the person's country of domicile and shall not be required to obtain a Kentucky driver's license[~~A nonresident over the age of sixteen (16) whose home state or country does not require the licensing of operators and who has registered his own motor vehicle, motorcycle, or moped for the current calendar year in his home state or country, may operate that motor vehicle, motorcycle, or moped upon Kentucky highways for not longer than thirty (30) days in any one (1) year without obtaining a Kentucky instruction permit or operator's license. The person may be required at any time or place to prove lawful ownership and the right to operate the motor vehicle, motorcycle, or moped and to establish his identity~~].

(4)[~~(3)~~] ***A person over the age of sixteen (16) who is not a United States citizen, who has not been granted status as a permanent resident of the United States, but is a resident of Kentucky, shall be issued a Kentucky operator's license if the person complies with the requirements of Section 4 of this Act. Except as provided in this subsection, an operator's license issued to a person who is not a United States citizen, who has not been granted status as a permanent resident of the United States, but is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of Justice, Immigration and Naturalization Service, is issued or four (4) years, whichever time period is shorter. An initial or renewal operator's license shall be valid for a period of two (2) years if the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular operator's license.*** The cabinet may at any time refuse or discontinue the exemptions authorized in this section for any grounds and may deny, cancel, suspend, or revoke an instruction permit or operator's license issued under this chapter.

(5)[~~(4)~~] A person whose operator's license or privilege to operate a motor vehicle, motorcycle, or moped in this state has been denied, withdrawn, canceled, suspended, or revoked as provided in KRS 186.400 to 186.640 shall not operate a motor vehicle, motorcycle, or moped in this state under a license, permit, or registration certificate issued by any other jurisdiction during the period of denial, withdrawal, cancellation, suspension, or revocation.

Section 6. KRS 186.440 is amended to read as follows:

An operator's license shall not be granted to:

(1) ***Any person who is not a resident of Kentucky;***

(2) Any person under the age of sixteen (16);

(3)[~~(2)~~] Any person under the age of eighteen (18) who holds a valid Kentucky instruction permit issued pursuant to KRS 186.450, but who has not graduated from high school or who is not enrolled and successfully participating in school or who is not being schooled at home, except those persons who satisfy the District Court of appropriate venue pursuant to KRS 159.051(3) that revocation of their license would create an undue hardship. Persons under the age of eighteen (18) shall present proof of complying with the requirements of KRS 159.051;

(4)[~~(3)~~] Any person whose operator's license has been suspended, during the period of suspension;

(5)[~~(4)~~] Any person whose operator's license has been revoked, nor to any nonresident whose privilege of exemption under KRS 186.430 has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued;

(6)[~~(5)~~] Any applicant adjudged incompetent by judicial decree;

(7)[~~(6)~~] Any person who in the opinion of the State Police, after examination, is unable to exercise reasonable and ordinary control over a motor vehicle upon the highways;

(8)[~~(7)~~] Any person who is unable to understand highway warnings or direction signs in the English language;

(9)[~~(8)~~] Any person required by KRS 186.480 to take an examination who has not successfully passed the examination;

(10)[~~(9)~~] Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof;

(11)[~~(10)~~] Any person who has not filed a correct and complete application attested to in the presence of a person authorized to administer oaths;

(12)[~~(11)~~] Any person who cannot meet the requirements set forth in KRS 186.411(1) or (3); or

(13)[~~(12)~~] Any person whose operator's license has been suspended or revoked under the provisions of KRS Chapter 186, 187, or 189A until the person has forwarded to the cabinet a reinstatement fee of fifteen dollars ($15). The fee shall be paid by certified check or money order payable to the State Treasurer who shall deposit five dollars ($5) of the fee in a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers. Ten dollars ($10) of the fee shall be deposited by the State Treasurer in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees, providing salary adjustments for employees, providing training for employees, and purchasing additional equipment used in administering the issuance of driver's licenses. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of the individuals are reinstated or to any student who has had his license revoked pursuant to KRS 159.051.

Section 7. KRS 186.570 is amended to read as follows:

(1) The cabinet or its agent designated in writing for that purpose may deny any person an operator's license or may suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, subject to a hearing and with or without receiving a record of conviction of that person of a crime, if the cabinet has reason to believe that:

(a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.

(b) That person has, by reckless or unlawful operation of a motor vehicle, caused, or contributed to an accident resulting in death or injury or serious property damage.

(c) That person has a mental or physical disability that makes it unsafe for him to drive upon the highways. The Transportation Cabinet shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish a medical review board to provide technical assistance in the review of the driving ability of these persons. The board shall consist of licensed medical and rehabilitation specialists.

(d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.

(e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and administrative regulations promulgated pursuant to KRS Chapter 13A.

(f) ***That person has presented false or misleading information as to the person's residency, citizenship, or immigration status.***

(g) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.

(h)[~~(g)~~] That person has been convicted of assault and battery resulting from the operation of a motor vehicle.

(i)[~~(h)~~] That person has failed to appear pursuant to a citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.

(j)[~~(i)~~] That person has failed to appear pursuant to an order by the court to produce proof of security required by KRS

304.39-010 and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.

(2) The cabinet shall deny any person a license or shall suspend the license of an operator of a motor vehicle upon receiving written notification from the Cabinet for Families and Children that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment or failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings, as provided by 42 U.S.C. secs. 651 et seq.; except that any child support arrearage which exists prior to January 1, 1994, shall not be included in the calculation to determine whether the license of an operator of a motor vehicle shall be denied or suspended. The denial or suspension shall continue until the arrearage has been eliminated, payments on the child support arrearage are being made in accordance with a court or administrative order, or the person complies with the subpoena or warrant relating to paternity or child support. Before the license may be reinstated, proof of elimination of the child support arrearage or proof of compliance with the subpoena or warrant relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16) from the court where the action is pending or the Cabinet for Families and Children shall be received by the Transportation Cabinet as prescribed by administrative regulations promulgated by the Cabinet for Families and Children and the Transportation Cabinet.

(3) The cabinet or its agent designated in writing for that purpose shall deny any person an operator's license or shall suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, where the person has been declared ineligible to operate a motor vehicle under KRS 532.356 for the duration of the ineligibility, upon notification of the court's judgment.

(4) The cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation, or withdrawal of their driving privileges, under provisions of this section, an informal hearing. Upon determining that the action is warranted, the cabinet shall notify the person in writing by mailing the notice to the person by first-class mail to the last known address of the person. The hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails the notice. The hearing shall be scheduled as early as practical within twenty (20) days after receipt of the request at a time and place designated by the cabinet. An aggrieved party may appeal a decision rendered as a result of an informal hearing, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(5) The cabinet may suspend the operator's license of any resident upon receiving notice of the conviction of that person in another state of an offense there which***,*** if committed in this state***,*** would be grounds for the suspension or revocation of an operator's license. If a person so convicted is not the holder of a Kentucky operator's license, the cabinet shall deny ***the person***[~~him~~] a license ***until the person resolves the matter in the other state and complies with the provisions of this chapter***[~~for the same period as if he had possessed a license and the license had been suspended~~]. The cabinet may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the convicted person is a resident.

(6) The Transportation Cabinet is forbidden from suspending or revoking an operator's license or assessing points or any other form of penalty against the license holder for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations. This section shall not apply to a commercial driver's license.

(7) Each operator's license which has been canceled, suspended, or revoked shall be surrendered to and retained by the cabinet. At the end of the period of cancellation, suspension, or revocation, the license may be returned to the licensee after he has complied with all requirements for the issuance or reinstatement of his driving privilege.

(8) Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder's driving privilege has been suspended or denied pursuant to subsection (2) of this section.

SECTION 8. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

The following persons shall be required to successfully complete the examinations required under Section 9 of this Act prior to being issued a Kentucky operator's license:

(1) A person who has been issued a Kentucky instruction permit;

(2) A person who has applied for a Kentucky operator's license under subsection (3) of Section 4 of this Act; and

(3) Other persons as identified in an administrative regulation promulgated by the Kentucky State Police under KRS Chapter 13A.

Section 9. KRS 186.480 is amended to read as follows:

(1) The State Police ***shall***[~~may~~] examine every[~~ unlicensed~~] applicant for an operator's license ***as identified in Section 8 of this Act,*** except as otherwise provided in this section. The examination shall be held in the county where the applicant resides unless:

(a) The applicant is granted written permission by the circuit clerk of the county in which he resides to take the examination in another county, and the State Police agree to arrange for the examination in the other county; or

(b) The applicant is tested using a bioptic telescopic device.

(2) The examination shall include a test of the applicant's eyesight to ensure compliance with the visual acuity standards set forth in KRS 186.577. The examination shall also include a test of the applicant's ability to read and understand highway signs regulating, warning and directing traffic, the applicant's knowledge of traffic laws and an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle. An applicant for a motorcycle operator's license shall be required to show his ability to operate a motorcycle, in addition to other requirements of this section. The provisions of this subsection shall not apply to an applicant who:

(a) At the time of application, holds a valid operator's license from another state, provided that state affords a reciprocal exemption to a Kentucky resident; or

(b) Is a citizen of the Commonwealth who has been serving in the United States military and has allowed his operator's license to expire.

(3) Any person whose operator's license is denied, suspended, or revoked for cause shall apply for reinstatement at the termination of the period for which the license was denied, suspended, or revoked by submitting to the examination. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated.

Section 10. The following KRS section is repealed:

186.413 Commission to determine color photo process to be used.

The Committee on Economic Development reported **HB 602** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 602, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.4588 is amended to read as follows:

(1) There is established within the Kentucky Economic Development Finance Authority a Local Government Economic Development Program to consist of a system of grants to counties to attract new industry.

(2) Grants obtained under this program shall be used for:

(a) Industrial development projects if an industrial firm has agreed with the local government, to the satisfaction of the Kentucky Economic Development Finance Authority, to develop, in conjunction with the industrial development project, manufacturing, processing, assembling, or other facilities approved by the commissioner of the Department for Coal County Development in the Cabinet for Economic Development;

(b) Industrial development projects if the commissioner of the Department for Coal County Development in the Cabinet for Economic Development finds that the project is necessary for the creation of an environment for new industry in order to obtain an agreement from an industrial firm to develop manufacturing, processing, assembling, or other facilities approved by the commissioner of the Department for Coal County Development;[~~ and~~]

(c) Debt service for industrial development projects, as defined in subsection (2)(a) and (b) of this section, or for facilities approved by the commissioner of the Department for Coal County Development in the Cabinet for Economic Development under the provisions of subsection (3) of this section***;***

(d) Job training, as approved by the commissioner of the Department for Coal County Development in the Cabinet for Economic Development; and

(e) Telecommunications infrastructure, as approved by the commissioner of the Department for Coal County Development in the Cabinet for Economic Development, that enhances and improves voice and data services to help create an environment more conducive to business activities.

(3) The commissioner of the Department for Coal County Development in the Cabinet for Economic Development may approve facilities, other than manufacturing, processing, or assembling facilities, for industrial development projects when the commissioner finds that the facility will add value to a product. Value-added facilities shall include data processing, telecommunication, and distribution facilities, but shall not include retail facilities or coal mining, coal processing, or coal transportation facilities. The commissioner may also approve privately-owned facilities for transient lodging and recreation where the commissioner finds that the cost of the recreation component of the facility is equal to, or greater than, the cost of the lodging component of the facility. The criteria for approval of applications for grants provided for in paragraphs (a), (b), and (c) of subsection ***(11)***[~~(10)~~] of this section shall be paramount in the case of lodging and recreational facilities.

(4) Applications for grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund. Applications for grants from funds provided for in KRS 42.4592(1)(c) shall be made by the legislative bodies of two (2) or more counties with accounts in the local government economic development fund. No grant shall be awarded without application for a grant.

(5) A grant may be awarded for an industrial development project located in a county that does not have an account in the local government economic development fund, if the commissioner of the Department for Coal County Development in

the Cabinet for Economic Development finds that the industrial development project may be reasonably expected to create jobs for residents of the local unit or units of government applying for the grant. Application for the grant shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund.

(6) An industrial development project may include legal, accounting, engineering, and marketing expenses for a regional industrial park, in addition to the activities set forth in subsection (11)(a) of this section.

(7) Grants awarded from funds provided for in KRS 42.4592(1)(a) and (b) shall not exceed the total balance of the accounts of the applicant counties at the time of the award of the grant.

(8) Grants awarded under the provisions of subsection (2)(c) of this section may be for a period not to exceed the current biennium of the Commonwealth, and shall be limited to an amount not to exceed the amount estimated to be allocated to the applicant county or counties for the current biennium under the provisions of KRS 42.4592(1)(a) and (b).

(9) Approval of grant applications ***under subsections (2)(a),(2)(b), or (2)(c) of this section*** shall be by the commissioner of the Department for Coal County Development in the Cabinet for Economic Development. ***Notwithstanding subsections (4) and (5) of this section, the commissioner of the Department for Coal County Development in the Cabinet for Economic Development shall approve projects under subsections (2)(d) and (2)(e) of this section in consultation with affected counties, but such projects shall not require an application by the legislative bodies of affected counties.*** Award of grants shall be by the Kentucky Economic Development Finance Authority.

(10) ***The commissioner of the Department for Coal County Development in the Cabinet for Economic Development is authorized to approve the funding of projects prioritized in the following manner:***

- ***(a) Industrial development projects under subsections (2)(a), (2)(b), and (2)(c) of this section;***
- ***(b) Job training under subsection (2)(d) of this section; and***
- ***(c) Any other projects allowed under this section or otherwise funded out of the Local Government Economic Development Fund created in KRS 42.4582.***

(11) Criteria for approval of applications and the award of grants to be considered, if applicable, shall include:

- (a) The number of jobs to be created or preserved, directly or indirectly, by the industrial development project;
- (b) Payrolls, and the taxes generated, both at the state and local levels, by the industrial development project and taxes generated by the employment created or preserved by the industrial development project;
- (c) The size, nature, and cost of the industrial development project, including the prospect of the industrial development project providing long-term jobs in enterprises consistent with the changing economies of the affected local units of government;
- (d) The needs, and degree of needs, of the local units of government which will be affected by the industrial development project;
- (e) The needs of any industrial firm benefiting from the industrial development project;
- (f) The amount and kind of assistance, if any, available to an industrial firm from other government agencies through tax exemption or abatement, financing assistance through industrial development bonds, and otherwise, with respect to the industrial development project;
- (g) The amount of capital made available to the facility by lenders and by the industrial firm; and
- (h) The economic feasibility of the facility.

(12)[~~(11)~~] For purposes of this section:

- (a) "Industrial development project" includes the acquisition of any real estate and the construction, acquisition, and installation thereon and with respect thereto of improvements and facilities necessary and useful for the improvement of the real estate for conveyance to or lease to industrial firms to be used for manufacturing, processing, or assembling purposes, including surveys; site tests and inspections; subsurface site work; excavation, removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage; storm water retention; installation of utilities, such as water, sewer, sewage treatment, gas, electricity, communication, and other similar facilities; off-site construction of utility extensions to the boundaries of the real estate; construction and installation on the real estate of the industrial firm of buildings, including buildings to be used for worker training and education; rail facilities; roads; sidewalks; curbs; other improvements to the real estate necessary to its manufacturing, processing, assembling, or other approved use by industrial entities; workforce training; and job development incentive grants;
- (b) "Industrial firm" means any corporation, limited liability company, limited liability partnership, partnership, person, or other legal entity, whether domestic or foreign, which will itself or through its subsidiaries and affiliates construct and develop a manufacturing, processing, assembling, or other approved facility on the site of an industrial development project financed pursuant to this section;
- (c) "Job development incentive grant" means an award to a county of funds from its account administered by the Kentucky Economic Development Finance Authority pursuant to KRS 42.4592(1)(a) and (b) for the use by the county to encourage job development for those industrial development projects located in that county which create

at least twenty-five (25) new full-time jobs held by Kentucky residents who receive a minimum wage of at least one hundred thirty percent (130%) of the federal minimum wage. Each job development incentive grant is limited to five thousand dollars ($5,000) for each job created which fulfills the requirements of this subsection. The industrial firm receiving the job development incentive grant shall pay its employees at the project site an average wage equal to or greater than one hundred fifty percent (150%) of the federal minimum wage and shall invest at least ten thousand dollars ($10,000) per new job created. After a fiscal court has received authorization for the job development grant by the Kentucky Economic Development Finance Authority, the county, the industrial firm, and the Kentucky Economic Development Finance Authority shall enter into an agreement committing the grant funds to be disbursed at such time as the industrial firm certifies the authenticity of the following information to be delivered to the county:

1. The industrial firm has made at least the minimum investment required;
2. At least twenty-five (25) new full-time Kentucky jobs have been created at the project site by the industrial firm;
3. No employee at the project site is paid a salary by the industrial firm which is less than one hundred thirty percent (130%) of the federal minimum wage;
4. The employees at the project site are paid an average wage by the industrial firm at least equal to one hundred fifty percent (150%) of the federal minimum wage;
5. Each employee hired for the project by the industrial firm shall have worked on a full-time basis at the minimum wages described in this section at least twelve (12) full consecutive months at the site prior to any grant funds disbursement; and
6. No job created by the industrial firm after twenty-four (24) months from the date of the first eligible hire at the project site shall be considered for the grant.

If the county is satisfied the information provided is accurate and qualifies the industrial firm for the job development incentive grant as described in the agreement, it shall forward the certified information to the Department for Coal County Development, Cabinet for Economic Development which shall make the job development grant disbursement upon sufficient evidence that all terms of the agreement have been met; and

(d) "Regional industrial park" means an industrial development project authorized for a grant award by the Kentucky Economic Development Finance Authority for a minimum of three (3) counties eligible for grant funds provided for in KRS 42.4592(1)(c), which coalition may include a county as approved under subsection (5) of this section.

(13)[~~(12)~~] Findings by the commissioner of the Department for Coal County Development in the Cabinet for Economic Development, provided for in subsections (2)(b), (3), and (5) of this section, shall be made in writing to the affected counties, the Governor, and the Legislative Research Commission.

(14)[~~(13)~~] By October 1 of each odd-numbered year, the commissioner of the Department for Coal County Development, Cabinet for Economic Development shall provide, in writing, to the Governor and the Legislative Research Commission a listing of all applications for grants received pursuant to this section subsequent to the last report, indicating which applications were approved or disapproved, with the reason for disapproval when the decision was to disapprove, and a listing of all grants awarded, with the amount of the award, the recipient county, and the related industrial development project.

Section 2. KRS 42.4585 is amended to read as follows:

(1) A portion of each quarterly transfer of moneys provided for in KRS 42.4582 shall be transferred from the local government economic development fund into the local government economic assistance fund according to the following schedule:

(a) Effective July 1, 1992, an amount equal to eighty percent (80%) of each quarterly transfer;

(b) Effective July 1, 1993, an amount equal to sixty-six and seven-tenths percent (66.7%) of each quarterly transfer;

(c) Effective July 1, 1994, an amount equal to forty-eight percent (48%) of each quarterly transfer; and

(d) Effective July 1, 1995, and thereafter, an amount equal to twenty-four percent (24%) of each quarterly transfer.

The transfers shall be made quarterly.

(2) The amount transferred annually from the local government economic development fund into the local government economic assistance fund under the provisions of subsection (1) of this section shall not be less than an amount equal to *fifteen*[~~thirteen~~] percent *(15%)*[~~(13%)~~] of the severance and processing taxes on coal collected annually.

(3) The quarterly calculation and transfer of funds pursuant to subsections (1) and (2) of this section shall be made only after the quarterly installment of the annual nineteen million dollars ($19,000,000) allocation of coal severance tax revenues has been credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission as required by KRS 342.122.

Section 3. KRS 65.680 is amended to read as follows:

As used in KRS 65.680 to 65.699:

(1) ***"Activation date" means the date established in the grant contract at any time in a two (2) year period after the date of approval of the grant contract by the economic development authority or the tourism development authority, as appropriate. The economic development authority or tourism development authority, as appropriate, may extend this two (2) year period to no more than four (4) years upon written application of the agency requesting the extension. To implement the activation date, the agency who is a party to the grant contract shall notify the economic development authority or the tourism development authority, as appropriate, the Revenue Cabinet, and other taxing districts that are parties to the grant contract when the implementation of the increment authorized in the grant contract shall occur;***

(2) "Agency" means an urban renewal and community development agency established under KRS Chapter 99; a development authority established under KRS Chapter 99; a nonprofit corporation established under KRS Chapter 58; an air board established under KRS 183.132 to 183.160; a local industrial development authority established under KRS 154.50-301 to 154.50-346; or a designated department, division, or office of a city or county;

(3) "Brownfield site" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant[~~"Assessment" means the job development assessment fee authorized by KRS 65.6851, which the governing body may elect to impose throughout the development area~~];

(4)[~~(2)~~] "City" means any city or urban-county;

(5)[~~(3)~~] "Commencement date" means the date a development area is established, as provided in the ordinance creating the development area;

(6) "Commonwealth" means the Commonwealth of Kentucky;

(7)[~~(4)~~] "County" means any county or charter county;

(8)[~~(5)~~] ***"CPI" means the non-seasonally adjusted Consumer Price Index for all urban consumers, all items (base year computed for 1982 to 1984 equals one hundred (100)), published by the United States Department of Labor, Bureau of Labor Statistics***[~~"Debt charges" means the principal, including any mandatory sinking fund deposits, interest, and any redemption premium, payable on increment bonds as the payments come due and are payable and any charges related to the payment of the foregoing~~];

(9)[~~(6)~~] "Development area" means a contiguous geographic area ***meeting the requirements of Section 8 or 9 of this Act***, which may be within one (1) or more cities or counties, defined and created for economic development purposes by an ordinance of a city or county in which one (1) or more[~~ economic development~~] projects are proposed to be located;

(10)[~~(7)~~] "Economic development ***authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010***[~~project" means any property, asset, or improvement certified by the governing body, which certification is conclusive as:~~

~~(a) Being for a public purpose;~~

~~(b) Being for economic development purposes;~~

~~(c) Being in or related to a development area; and~~

~~(d) Having an estimated life or period of usefulness of one (1) year or more, including, but not limited to, real estate, buildings, personal property, equipment, furnishings, and site improvements and reconstruction, rehabilitation, renovation, installation, improvement, enlargement, and extension of property, assets, or improvements so certified as having an estimated life or period of usefulness of one (1) year or more;~~

~~(8) "Economic development purposes" means the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, or any combination thereof, which is determined by the governing body establishing the development area as contributing to economic development;~~

~~(9) "Financing agreement" means an agreement made between cities, counties, or a combination thereof providing for the release of increments under the authority of KRS 65.680 to 65.699~~];

(11) "Enterprise Zone" means an area designated by the Enterprise Zone Authority of Kentucky to be eligible for the benefits of KRS 154.45-010 to KRS 154.45-110;

(12)[~~(10)~~] "Governing body" means the body possessing legislative authority in a city or county;

(13) "Grant contract" means that agreement, including with respect to a development area satisfying the requirements of Sections 8 or 9 of this Act, a master agreement and addenda to the master agreement, by and among an agency, one or more taxing districts, and the economic development authority or the tourism development authority, as appropriate, by which a taxing district permits the payment to an agency of an amount equal to a portion of increments received by it in return for the benefits accruing to the taxing district by reason of one (1) or more projects in a development area;

(14)[~~(11)~~] "Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more[~~ economic development~~] projects in a development area, the payment of which is secured solely by a pledge of increments or by a pledge of increments and other sources of payment that are otherwise permitted by law to be pledged or used as a source of payment of the bonds or notes;

(15)[~~(12)~~] "Increments" means ***the***[~~that~~] amount of ***revenues***[~~revenue due to be~~] received by ***any taxing district***[~~a city or county~~], determined by subtracting the amount of old revenues from the amount of new revenues ***in the calendar year***[~~, including assessments, if any,~~] with respect to a development area ***and for which the taxing district or districts and the agency have agreed upon under the terms of a grant contract;***

(16) "Infrastructure development" means the acquisition of real estate within a development area meeting the requirements of Section 8 of this Act and the construction or improvement, within a development area meeting the requirements of Section 8 of this Act of roads and facilities necessary or desirable for improvements of the real estate, including surveys; site tests and inspections; environmental remediation; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other underground and surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, and electricity, communications, and similar facilities; and utility extensions to the boundaries of the development area meeting the requirements of Section 8 of this Act;

(17)[~~(13)~~] "Issuer" means a city or county issuing increment bonds;

(18)[~~(14)~~] "New revenues" means the ***amount of*** revenues received with respect to a development area in any ***calendar*** year after the ***activation***[~~commencement~~] date for the development area ***satisfying the requirements of:***

(a) Section 8 of this Act, the ad valorem taxes other than the school and fire district portions of the ad valorem taxes received from real property generated from the development area and properties sold within the development area; or

(b) Section 9 of this Act, the ad valorem taxes, other than the school and fire district portions of the ad valorem taxes, received from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees or other such state taxes as may be determined by the Revenue Cabinet to be applicable to the project and specified in the grant contract, generated from the primary project entity within the development area minus relocation revenue[~~and may include all or a portion of the assessments as determined by the governing body~~];

(19)[~~(15)~~] "Old revenues" means the amount of revenues received with respect to a development area ***satisfying the requirements of:***

(a) Section 8 of this Act, in the last ***calendar*** year prior to the commencement date for the development area***, revenues which constitute ad valorem taxes other than the school and fire district portions of ad valorem taxes received from real property in the development area; or***

(b) Section 9 of this Act, in the period of no longer than three (3) calendar years prior to the commencement date, the average as determined by the Revenue Cabinet to be a fair representation of revenues derived from ad valorem taxes, other than the school and fire district portions of ad valorem taxes, from real property in the development area, and Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees and other such state taxes as may be determined by the Revenue Cabinet as specified in the grant contract generated from the development area. With respect to this subsection, if the development area were within an active enterprise zone for the period used by the Revenue Cabinet for measuring old revenues, then the calculation of old revenues shall include the amounts of ad valorem taxes, other than the school and fire district portions of ad valorem taxes, that would have been generated from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees and other such state taxes as may be determined by the Revenue Cabinet as specified in the grant contract, were the development area not within an active enterprise zone. With respect to this subsection, if the primary project entity generated old revenue prior to the commencement date in the development area or revenues were derived from the development area prior to the commencement date of the development area, then revenues shall increase each calendar year by the percentage increase of the CPI, if any;

(20)[~~(16)~~] "Outstanding" means increment bonds that have been issued, delivered, and paid for, except any of the following:

(a) Increment bonds canceled upon surrender, exchange, or transfer, or upon payment or redemption;

(b) Increment bonds in replacement of which or in exchange for which other bonds have been issued; or

(c) Increment bonds for the payment, or redemption or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the ordinance or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, or otherwise, have been deposited, and credited in a sinking fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of increment bonds to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected bond holders has been filed with the issuer or its agent;

(21) "Primary project entity" means the entity responsible for control, ownership and operation of the project within a development area satisfying the requirements of Section 9 of this Act which generates the greatest amount of new

revenues or, in the case of a proposed development area satisfying the requirements of Section 9 of this Act, is expected to generate the greatest amount of new revenues;

(22) "Project" means:

(a) For purposes of a development area satisfying the requirements of Section 8 of this Act, an economic development project defined under Section 12 of this Act, Section 25 of this Act, or Section 30 of this Act; or

(b) For purposes of a development area satisfying the requirements of Section 9 of this Act, the development of facilities for:

1. The transportation of goods or persons by air, ground, water, or rail;

2. The transmission or utilization of information through fiber optic cable or other advanced means;

3. Commercial, industrial, recreational, tourism attraction or educational uses; or

4. Any combination thereof;

(23) "Relocation revenue" means the ad valorem taxes, other than the school and fire district portions of ad valorem taxes, from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees and other such state taxes as specified in the grant contract, received by a taxing district attributable to that portion of the existing operations of the primary project entity located in the Commonwealth and relocating to the development area satisfying the requirements of Section 9 of this Act;

(24) "Taxing district" means a city, county, or other taxing district that encompasses all or part of a development area, or the Commonwealth, but does not mean a school district or fire district;

[~~(17) "Revenue collector" means any official charged with collecting revenues in a development area;~~

~~(18) "Revenues" means ad valorem revenues, occupational license fees, and assessments received by the city or county creating a development area and by each city and county that is a party to a financing agreement related to that development area;~~

~~(19) "Special fund" means a special fund created in accordance with KRS 65.688 into which increments are to be deposited;~~]

(25)[~~(20)~~] "Termination date" means the date on which ***a***[~~the~~] development area shall cease to exist, which ***for purposes of a development area satisfying the requirements of:***

(a) Section 8 of this Act, shall be for a period of no longer than twenty (20) years from the commencement date and set forth in the grant contract constituting a master agreement, except that for an addendum added to the master agreement for each project in the development area, the termination date may be extended to no longer than twenty (20) years from the date of each addendum, or

(b) Section 9 of this Act, shall be for a period of no longer than twenty (20) years from the activation date of the grant contract. Increment bonds shall not mature on a date beyond the termination date established by this subsection[~~date shall be no earlier than the date any increment bonds secured by increments from a development area are no longer outstanding~~]; and

(26)[~~(21)~~] ***"Tourism development authority" means the Tourism Development Finance Authority as created in KRS 148.850***[~~"Year" means January 1 to December 31 of the same calendar year~~].

Section 4. KRS 65.682 is amended to read as follows:

The General Assembly finds and declares that economic development created by the development of[~~ economic development~~] projects to support economic revitalization and improvement in a development area which results in the increase in the value of property located in a development area or results in increased employment opportunities within or around a development area serves a public purpose***; and that the authority prescribed by Sections 3 to 9 of this Act and the purposes to be accomplished thereunder, are proper governmental and public purposes for which public moneys may be expended; and that the creation or expansion of development areas is of paramount importance mandating that the provisions of KRS 65.680 to 65.699 be liberally construed and applied in order to advance public purposes***.

Section 5. KRS 65.686 is amended to read as follows:

(1) Any city or county may establish or modify a development area by:

(a) Holding a public hearing by its governing body or its designee at which interested parties are afforded a reasonable opportunity to express their views on the proposed creation or modification of a development area and its boundaries. Notice of the hearing shall:

1. Include a declaration that the purpose of the hearing is to afford interested parties an opportunity to express their views regarding the ***proposed*** development area;

2. Include a general description of the boundaries of the proposed development area;

3. State the time and place of the hearing; and

4. Be published in a local newspaper of general circulation at least seven (7) days but no more than twenty-one (21) days prior to the scheduled hearing date; and

(b) Adopting an ordinance which shall:

1. Describe the boundaries of the ***proposed*** development area with sufficiency to allow ordinary and

reasonable certainty of the territory included. However, no ***proposed*** development area shall include property located in any other development area;

2.[~~Create the development area on a date certain, which shall be referred to as the commencement date, and, if deemed appropriate by the governing body, establish a termination date;~~

~~3.~~] Assign a name to the ***proposed*** development area for identification purposes;

3.[~~4.~~] Contain findings that the designation of the proposed development area will result in the increase in the value of property located in the development area or result in increased employment within or around the development area, or both;

4.[~~5.~~] Approve the ***grant contract***[~~financing agreement, if any~~], relating to ***a development area***[~~the economic development project~~]; ***and***

[~~6. Establish a special fund for that development area;~~]

5.[~~7.~~] Contain any other findings, limitations, rules, or procedures regarding the ***proposed*** development area and its establishment or maintenance as deemed necessary by the governing body[~~; and~~

~~8. Levy the job development assessment fee, if any; and~~

~~(c) Providing the revenue collector, if the collector is not an employee of the city or county designating the development area, with a description of the development area and any other information available which is needed to determine increments or new revenues~~].

(2) Increments ***paid by the city, county or Commonwealth to the agency for which the development area is created shall be***[~~generated in a development area shall be submitted by the revenue collector to the city or county establishing the special fund for that development area, deposited to that special fund and used to pay the costs of economic development projects or to pay debt charges on increment bonds, except that increments payable to any city or county other than the city or county establishing the economic development area shall be submitted to that city or county as if no development area existed unless that city or county is a party to a financing agreement that provides that some or all of the increments are to be submitted to a special fund~~].

(3) The existence of a development area shall terminate on the termination date[~~ and if no termination date is established by the ordinance creating the development area, on the earlier of the termination date subsequently established by ordinance or the first December 31 that is at least thirty (30) years from the commencement date; however, any development area shall not be terminated as long as there are any increment bonds outstanding for which the revenues of the development area are pledged to the repayment thereof~~].

Section 6. KRS 65.692 is amended to read as follows:

(1) Increment bonds may be issued to pay the costs of[~~ economic development~~] projects ***in the development area***. The provisions of KRS 66.021, 66.031, 66.041, 66.045, 66.071, 66.091, 66.121, 66.131, 66.141, 66.151, 66.171, 66.181, and 66.191 shall apply to the issuance of increment bonds.

(2) Debt payments on increment bonds may be paid from increments, from any other funds of the issuer, or from funds identified in a ***grant contract***[~~financing agreement~~], or any combination thereof. If increment bonds are payable solely from increments, the issuer shall, prior to the issuance of the increment bonds, make a determination that the increments are adequate to make the debt payments so long as the increment bonds are outstanding.

(3) Increment bonds may also be issued to fund or refund all or any portion of outstanding increment bonds. Any increment bonds issued under this subsection shall mature as determined by the governing body consistent with ***the definition of termination date as contained in Section 3 of this Act and*** KRS 66.091[~~, but their maturity shall not be later than the date that would have been permitted by KRS 66.091, as of the date the original bonds were issued~~].

Section 7. KRS 65.694 is amended to read as follows:

Any city or county may pledge increments to the payment of increment bonds by an ordinance adopted by the governing body or by a ***grant contract***[~~financing agreement~~] adopted by ordinance. Any pledge of increments adopted under this section shall, as to the increments, but not as to any other revenues, be superior to any other pledge of revenues for any other purpose and shall, from the effective date of the ordinance to the termination date, supersede any statute or ordinance regarding the application or use of increments. No ordinance in conflict with an ordinance pledging increments shall be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances pledging increments on a subordinate basis to any existing pledges may be adopted.

SECTION 8. A NEW SECTION OF KRS CHAPTER 65.680 TO 65.699 IS CREATED TO READ AS FOLLOWS:

(1) A city, county, or agency shall submit an application to the economic development authority for approval of a development area, the standards for which the economic development authority shall establish through its operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) A development area for purposes of infrastructure development shall:

(a) 1. Consist of at least one hundred (100) acres of undeveloped land, or

2. Consist of at least one (1) acre constituting a brownfield site; and

(b) Be under the control, owned, and operated by an agency.

(3) With respect to each city, county, or agency that applies to the economic development authority for approval of a development area for infrastructure development, the economic development authority shall request materials and make all inquiries concerning the application the economic development authority deems necessary. Upon review of the application and requested materials, and completion of inquiries, the economic development authority may grant approval for:

(a) The development area for infrastructure development;

(b) Each project for which an application has been submitted to be located in the development area for infrastructure development, provided that each project approved for location in the development area for infrastructure development meets the criteria necessary in order to qualify for inducements under subchapters 22, 24, and 28 of KRS Chapter 154;

(c) The percentage of the Commonwealth's portion of the increment that the Commonwealth agrees to have distributed to the agency each year during the term of the grant contract;

(d) The maximum amount of costs for infrastructure development for which the increment may be distributed to the agency; and

(e) The master agreement constituting a grant contract and any addendum for each project approved for location in the development area for infrastructure development.

(4) Prior to any approval by the economic development authority, the economic development authority shall have received an ordinance adopted by the city or county creating the development area and establishing the percentage of increment that the city and county are distributing each year to the agency for use in the infrastructure development of the development area for which economic development authority approval is sought. The economic development authority shall not approve a percentage of the Commonwealth's portion of the increment to be distributed to the agency each calendar year with respect to a development area for infrastructure development greater than the percentage approved by the city or county creating the development area.

(5) The maximum amount of increment available for development areas for infrastructure development is one hundred percent (100%).

(6) The terms and conditions of each grant contract, including the master agreement constituting a grant contract and any addenda, are subject to negotiations between the economic development authority and the other parties to the grant contract. The grant contract shall include, but not be limited to, the following provisions: the activation date, the taxes to be included in the calculation of the increment, the percentage increment to be contributed by each taxing district, the maximum amount of infrastructure development costs, a description of the development area, the termination date, subject to extension through each addendum, and the requirement of the agency to annually certify to the economic development authority as to the use of the increment for payment of infrastructure development costs.

(7) (a) Any agency that enters into a grant contract for the release of any increments that may arise during the period of a grant contract shall, after each calendar year a grant contract is in effect, notify each taxing district obligated under the grant contract that an increment is due, and, in consultation with each taxing district, determine the respective portion of the total increment due from each taxing district. The agency shall then present the total increment due from the Commonwealth under the grant contract to the Revenue Cabinet for certification.

1. Upon notice from the agency, each taxing district obligated under the grant contract, other than the Commonwealth, shall release to the agency the respective portion of the total increment due under the grant contract. The agency shall certify to the Revenue Cabinet on a calendar year basis the amount of the increment collected.

2. Upon certification of the total increment due from the Commonwealth by the Revenue Cabinet, the Cabinet is authorized and directed to transfer the increment to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the increment. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the economic development authority shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the grant contract. Upon notification, the Finance and Administration Cabinet is authorized and directed to release to the agency the Commonwealth's portion of the total increment due under the grant contract.

(b) The Revenue Cabinet shall report to the economic development authority on a calendar year basis the amount of the total increment released to an agency.

(8) The Revenue Cabinet shall have the authority to establish operating procedures for the administration and determination of the Commonwealth's increment.

(9) The Revenue Cabinet or agency shall have no obligation to refund or otherwise return any of the increment to the taxpayer from whom the increment arose or is attributable. Further, no additional increment resulting from audit, amended returns or other activity for any period shall be transferred to the tax increment financing account after the

initial release to the agency of the Commonwealth's increment for that period.

SECTION 9. A NEW SECTION OF KRS CHAPTER 65.680 TO 65.699 IS CREATED TO READ AS FOLLOWS:

(1) A city, county, or agency shall submit an application to the Cabinet for Economic Development for approval of a development area and the related project, the standards for which the Cabinet for Economic Development and the Tourism Development Cabinet shall establish through their operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The Cabinet for Economic Development shall determine whether the development area and related project described in the application constitutes a project of the type described in KRS Chapter 154 for which the economic development authority shall have the right to approve the development area and related project or KRS Chapter 148 for which the tourism development authority shall have the right to approve the development area and related project. The Cabinet for Economic Development, upon its determination, shall assign the application to the economic development authority or the tourism development authority, as appropriate, for further consideration and approval.

(2) A project otherwise satisfying the requirements of the project as defined in Section 3 of this Act, in order to qualify the project and related development area, in addition shall satisfy all of the following requirements for a project:

(a) Represent new economic activity in the Commonwealth;

(b) Result in a minimum capital investment of ten million dollars ($10,000,000);

(c) Result in the creation of a minimum of twenty-five (25) new full-time jobs for Kentucky residents to be held by persons subject to the personal income tax of the Commonwealth within two (2) years of the date of the final resolution authorizing the development area and the project;

(d) Result in a net positive economic impact to the economy of the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses;

(e) Generate a minimum of twenty-five percent (25%) of the total revenues derived from the project attributable to sources outside of the Commonwealth during each year a grant contract is in effect;

(f) Result in a unique contribution to or preservation of the economic vitality and quality of life of a region of the Commonwealth; and

(g) Not be primarily devoted to the retail sale of goods.

(3) After assignment of the application for the project and related development area by the Cabinet for Economic Development:

(a) The economic development authority or the tourism development authority, as appropriate, shall engage the services of a qualified independent consultant to analyze data related to the project and the development area, who shall prepare a report for the economic development authority or the tourism development authority, as appropriate, with the following findings:

1. The percentage of revenues derived from the development area which are generated from business not located in the Commonwealth;

2. The estimated amount of increment the development area is expected to generate over a twenty (20) year period from the projected activation date;

3. The estimated amount of ad valorem taxes, other than the school or fire district portion of ad valorem taxes, from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, or other such state taxes which would be displaced within the Commonwealth, to reflect economic activity which is being shifted over the twenty (20) year period;

4. The estimated increment the development area is expected to generate over the twenty (20) year period, equal to the estimated amount set forth in paragraph (a)2. of this subsection minus the estimated amount set forth in paragraph (a)3. of this subsection; and

5. The project or development area will not occur if not for the designation of the development area and granting of increments by the Commonwealth to the development area.

(b) The independent consultant shall consult with the economic development authority or the tourism development authority, as appropriate, the Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet in the development of the report. The Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall agree as to methodology to be used and assumptions to be made by the independent consultant in preparing its report. On the basis of the independent consultant's report and prior to any approval of a project by the economic development authority or the tourism development authority, as appropriate, the Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall certify whether there is a projected net positive economic impact to the Commonwealth and the expected amount of incremental state revenues from the project to the economic development authority or tourism development authority, as appropriate. Approval shall not be granted if it is determined that there is no projected net positive economic impact to the Commonwealth.

(c) The primary project entity shall pay all costs associated with the independent consultant's report.

(4) With respect to each city, county, or agency that applies for approval of a project and development area, the economic development authority or the tourism development authority, as appropriate, shall request materials and make all inquiries concerning the application the economic development authority or the tourism development authority, as appropriate, deems necessary. Upon review of the application and requested materials, and completion of inquiries, the economic development authority or the tourism development authority, as appropriate, may, by resolution grant approval for:

(a) The development area and project for which an application has been submitted;

(b) The percentage of the Commonwealth's portion of the increment that the Commonwealth agrees to have distributed to the agency each year during the term of the grant contract;

(c) The maximum amount of costs for the project for which the increment may be distributed to the agency; and

(d) The grant contract.

(5) Prior to any approval by the economic development authority or the tourism development authority, as appropriate, the economic development authority or the tourism development authority shall have received an ordinance adopted by the city or county creating the development area and approving the project and establishing the percentage of increment that the city and county are distributing each year to the agency to pay for the development area for which economic development authority or tourism development authority approval is sought. The economic development authority or the tourism development authority, as appropriate, shall not approve a percentage of the Commonwealth's portion of the increment to be distributed to the agency each year with respect to a development area and project greater than the percentage approved by the city or county creating the development area.

(6) The amount of increment available for a development area shall be no more than eighty percent (80%) per year, but shall in no case exceed twenty-five percent (25%) of the project costs during the term of the grant agreement.

(7) The terms and conditions of each grant contract are subject to negotiations between the economic development authority or the tourism development authority, as appropriate, and the other parties to the grant contract. The grant contract shall include, but not be limited to, the following provisions: the activation date, the agreed taxes to be included in the calculation of the increment, the percentage increment to be contributed by the Commonwealth and other taxing districts, the maximum amount of project costs, a description of the development area and the project, the termination date, and the requirement that the agency annually certify to the economic development authority or tourism development authority, as appropriate, as to the use of the increment for payment of project costs in the development area.

(8) The agency responsible for the development area that enters into the grant contract shall, after each year the grant contract is in effect, certify to the economic development authority or the tourism development authority, as appropriate:

(a) The amount of the increment used during the previous calendar year for the project costs; and

(b) That more than twenty-five percent (25%) of the total revenues derived from the project during the previous calendar year were attributable to sources outside the Commonwealth.

(9) (a) Any agency that enters into a grant contract for the release of any increments that may arise during the period of a grant contract shall, after each calendar year a grant contract is in effect, notify each taxing district obligated under the grant contract that an increment is due. In consultation with each taxing district, the agency shall determine the respective portion of the total increment due from each taxing district, and the determination of the agency shall be reviewed by an independent certified public accountant. The agency shall submit to the Revenue Cabinet for certification its determination with respect to the total increment due together with the review of the certified public accountant and detailed information concerning ad valorem taxes, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as may be determined by the Revenue Cabinet, including withholding taxes of employees of each taxpayer located in the development area.

1. Upon notification to the agency of the total increment by the Revenue Cabinet and notice from the agency, each taxing district obligated under the grant contract, other than the Commonwealth, shall release to the agency the respective portion of the total increment due under the grant contract. The agency shall certify to the Revenue Cabinet on a calendar year basis the amount of the increments collected.

2. Upon certification of the total increment due from the Commonwealth by the Revenue Cabinet, the Cabinet is authorized and directed to transfer the increment to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the increment. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the economic development authority or the tourism development authority, as appropriate, shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the grant contract. Upon notification, the Finance and Administration Cabinet is authorized and directed to release to the agency the Commonwealth's portion of the total increment due under the grant contract.

(b) The Revenue Cabinet shall report to the economic development authority or the tourism development authority, as appropriate, on a calendar year basis the amount of the total increment released to an agency.

(10) The Revenue Cabinet shall have the authority to establish operating procedures for the administration and determination of the Commonwealth's increment.

(11) The Revenue Cabinet or agency shall have no obligation to refund or otherwise return any of the increment to the taxpayer from whom the increment arose or is attributable. Further, no additional increment resulting from audit, amended returns or other activity for any period shall be transferred to the trust account established under subsection (9)(a)2. of this section and administered by the Finance and Administration Cabinet after the initial release to the agency of the Commonwealth's increment for that period.

Section 10. KRS 103.210 is amended to read as follows:

(1) In order to promote the economic development of the Commonwealth, promote reconversion to peacetime economy, to relieve conditions of unemployment, to aid in the rehabilitation of returning veterans, to encourage the increase of industry in this state, and to aid in the retention of existing industry through the control of pollution or through conversion of energy facilities to more readily available fuels, any city or county may borrow money and issue negotiable bonds for the purpose of defraying the cost of acquiring any industrial building or pollution control facility, either by purchase or construction, but only after an ordinance or resolution has been adopted by the legislative body of the city or the fiscal court of the county, or the governing body of Kentucky Economic Development Finance Authority, if requested by the legislative body of the city or the fiscal court of the county, as the case may be, specifying the proposed undertaking, the maximum amount of bonds to be outstanding at any one (1) time, and the maximum rate of interest the bonds are to bear. This section shall not be deemed to require, however, that such ordinance or resolution be adopted prior to interim financing of the project, if such interim financing was undertaken by the proposed lessee corporation upon the basis of discussions between the corporation and responsible officials of the issuer which were later formally ratified by the appropriate governing body of the issuer. The ordinance or resolution shall further provide that the industrial building or the pollution control facility is to be acquired pursuant to the provisions of KRS 103.200 to 103.285. Each such bond-authorizing ordinance or resolution shall be effective only after publication, in a newspaper authorized to publish official advertisements for the issuer, of the title to said ordinance or resolution, together with a statement signed by the clerk of the issuer setting forth the maximum amount of bonds to be outstanding at any one (1) time, the name of the lessee corporation, and the fact that the bonds are to be retired from the proceeds of either the lease payments as set forth in KRS 103.200 to 103.285, inclusive, or the loan payments or sale payments in the event the industrial building financing transaction is carried out pursuant to a loan agreement, sale agreement, or other ***tax incentive***[~~financing~~] agreement. No publication of the complete ordinance or resolution shall be required, but said ordinance or resolution shall be entered upon the records of the issuer and shall be available for public inspection. ***Any industrial buildings financed by bonds pursuant to KRS 103.200 to 103.285 and leased in connection with the bond financing from a tax-exempt governmental unit, or tax-exempt statutory authority, shall require the prior approval by the Kentucky Economic Development Finance Authority of the reduced ad valorem tax for industrial buildings under KRS 132.020, the standards for which the Kentucky Economic Development Finance Authority shall establish through its operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A.***

(2) Kentucky Economic Development Finance Authority, any air board established pursuant to KRS 183.132, and any riverport authority established as provided in KRS 65.510 to 65.650, inclusive, shall have and possess all power and authority granted to cities and counties by the provisions of KRS 103.200 to 103.285, excluding condemnation powers under KRS 103.245, for the financing of industrial buildings. For such purposes, the terms "city," "county," and "issuer" as used in KRS 103.200 to 103.285, inclusive, shall also mean and refer to Kentucky Economic Development Finance Authority, any air board established pursuant to KRS 183.132, and any riverport authority established as provided in KRS 65.510 to 65.650. The power and authority granted to Kentucky Economic Development Finance Authority, any air board, and any riverport authority shall be and constitute an additional and alternative grant of power and authority to such governmental agencies, and shall not be construed as being in derogation of any other powers vested in each of such governmental agencies.

Section 11. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of thirty-one and one-half cents ($0.315) upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103***, upon the prior approval of the Kentucky Economic Development Finance Authority***[~~directed to be assessed for taxation~~], except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of all money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by or leased to a person actually

engaged in farming and used in his farm operations, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81, fifteen cents ($0.15) upon machinery actually engaged in manufacturing, fifteen cents ($0.15) upon commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents ($0.15) upon property which has been certified as a pollution control facility as defined in KRS 224.01-300, one-tenth of one cent ($0.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five cents ($0.45) upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed, except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.300, 136.320, and other sections providing a different tax rate for particular property.

(2) (a) An annual ad valorem tax for state purposes of one and one-half cents ($0.015) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when the intangible personal properties have not acquired a taxable situs without this state:

1. Accounts receivable, notes, bonds, credits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;
2. Patents, trademarks, copyrights, and licensing or royalty agreements relating to these;
3. Notes, bonds, accounts receivable, and all other intercompany intangible personal property due from any affiliated company; and
4. Tobacco base allotments.

(b) An annual ad valorem tax for state purposes of one-thousandth of one percent (0.001%) shall be paid upon money in hand, notes, bonds, accounts, credits, and other intangible assets, whether by mortgage, pledge, or otherwise, or unsecured, of financial institutions, as defined in KRS 136.500.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school, or other taxing district on the intangible properties, or directly or indirectly against the owner.

(5) Thirty cents ($0.30) of the thirty-one and one-half cents ($0.315) state tax rate on real property and thirty cents ($0.30) of the forty-five cents ($0.45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents ($0.30), as certified by the Department of Education, the direct payments shall be reduced proportionately.

(6) The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%)***, excluding the assessment from property which is subject to tax increment financing pursuant to KRS Chapter 65 and the assessment from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents ($0.015) pursuant to subsection (1) of this section***. In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(7) By July 1 each year, the cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (5) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the cabinet shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the cabinet, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the cabinet, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(8) If the tax rate set by the cabinet as provided in subsection (6) of this section produces more than a four percent (4%) increase in real property tax revenues, ***excluding the revenue from property which is subject to tax increment financing pursuant to KRS Chapter 65 and the revenue from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents ($0.015) pursuant to subsection (1) of this section,*** the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent

(4%) per year.

(9) The provisions of subsection (6) of this section notwithstanding, the assessed value of unmined coal certified by the cabinet after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (6) of this section. The calculated rate shall, however, be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 to 146.570, except that four hundred thousand dollars ($400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Kentucky Coal Council for the purpose of public education of coal-related issues.

(10) Effective on or after January 1, 1990, an ad valorem tax for state purposes of five cents ($0.05) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business, which, on or after January 1, 1999, includes machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement; and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business.

(11) An ad valorem tax for state purposes of ten cents ($0.10) per one hundred dollars ($100) of assessed value shall be paid on the operating property of railroads or railway companies that operate solely within the Commonwealth.

(12) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on aircraft not used in the business of transporting persons or property for compensation or hire.

(13) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes.

Section 12. KRS 154.22-010 is amended to read as follows:

The following words and terms as used in KRS 154.22-010 to 154.22-080, unless the context clearly indicates a different meaning, shall have the following meanings:

(1) ***"Activation Date" means a date selected by an approved company in the tax incentive agreement at any time within a two (2) year period after the date of final approval of the tax incentive agreement by the authority;***

(2) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more ***chains***[~~claims~~] of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended***;***~~[.]~~

(3)~~[(2)]~~ "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products***;***~~[.~~

~~(3) "Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal.]~~

(4) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to KRS 154.22-010 to 154.22-080***;***~~[.]~~

(5) "Approved costs" means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

(f) All other costs of a nature comparable to those described above***;***~~[.]~~

(6) "Assessment" means the job development assessment fee authorized by KRS 154.22-010 to 154.22-080***;***~~[.]~~

(7) "Authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010***;***~~[.]~~

(8) ***"Average hourly wage" means the most current wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand and eighty (2,080) hour work year for the following sectors:***

(a) Manufacturing;

(b) Transportation, communications and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance and real estate; and

(e) Services;

~~["Bonds" means the revenue bonds, notes, or other debt obligations of the authority authorized to be issued by the authority, eligible companies, or other state agency.]~~

(9) "Commonwealth" means the Commonwealth of Kentucky***;***[~~.~~]

(10) (a) "Economic development project" means and includes:

1. The acquisition of ownership in any real estate in a qualified county by the authority, the approved manufacturing or agribusiness company, or its affiliate;

2. The present ownership of real estate in a qualified county by the approved manufacturing or agribusiness company or its affiliate;

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved manufacturing or agribusiness company pursuant to a ground lease having a term of sixty (60) years or more; and

4. The new construction of an electric generation facility***;***[~~.~~]

(b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) or paragraph (b) of this subsection, the construction, installation, equipping, and rehabilitation of improvements, including fixtures and equipment, and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities on the real estate, for use and occupancy by the approved company or its affiliates for manufacturing purposes, electric generation, or for agribusiness purposes. Pursuant to subparagraph 3. of paragraph (a) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.22-010 to 154.22-080***;***[~~.~~]

(11) ***"Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal;***

(12) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in manufacturing, electric generation, or in agribusiness***;***[~~.~~]

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(14)[~~(12)~~] "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter***;***[~~.~~

~~(13) "Financing agreement" means any agreement entered into, pursuant to KRS 154.22-010 to 154.22-080, on behalf of the authority or other lenders, or both, and an approved company with respect to an economic development project.~~]

(15) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(16)[~~(14)~~] "Inducements" means the assessment and the income tax credits allowed by KRS 154.22-060***;***[~~.~~]

(17)[~~(15)~~] "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity related to it, together with the storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals***;***[~~.~~]

(18)[~~(16)~~] "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter***;***[~~.~~]

(19)[~~(17)~~] "Qualified county" means any county certified as such by the authority pursuant to KRS 154.22-010 to 154.22-080***;***[~~.~~]

(20)[~~(18)~~] "Revenues" shall not be considered state funds***;***[~~.~~]

(21)[~~(19)~~] "State agency" shall have the meaning assigned to the term in KRS 56.440(8)***; and***

(22) "Tax incentive agreement" means the agreement entered into, pursuant to Section 14 of this Act, between the authority and an approved company with respect to an economic development project.

Section 13. KRS 154.22-040 is amended to read as follows:

(1) Each year the authority shall under its Rural Economic Development Assistance Program, on the basis of the final unemployment figures calculated by the Department for Employment Services within the Cabinet for Workforce Development, determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in the most recent five (5) consecutive calendar years, or which have had an average countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth by two

hundred percent (200%) in the most recent ***calendar year***[~~twelve (12) consecutive months for which unemployment figures are available~~], and shall certify those counties as qualified counties. ***A county not certified on the basis of final unemployment figures may also be certified as a qualified county if the authority determines the county is one (1) of the sixty (60) most distressed counties in the Commonwealth based on the following criteria with equal weight given to each criterion:***

(a) The average countywide rate of unemployment in the most recent three (3) consecutive calendar years, on the basis of final unemployment figures calculated by the Department for Employment Services in the Cabinet for Workforce Development;

(b) In each county the percentage of adults twenty-five (25) years of age and older who have attained at least a high school education or equivalent, on the basis of the most recent data available from the United States Department of Commerce, Bureau of the Census; and

(c) Road quality, as quantified by the access within a county to roads ranked in descending order from best quality to worst quality as follows: two (2) or more interstate highways, one (1) interstate highway, a state four (4) lane parkway, four (4) lane principal arterial access to an interstate highway, state two (2) lane parkway and none of the preceding road types, as certified by the Kentucky Transportation Cabinet to the authority.

If the authority determines that a county which has previously been certified as a qualified county no longer[~~ has an unemployment rate that~~] meets the criteria of this subsection, the authority shall decertify that county. The authority shall not ***provide inducements for***[~~finance~~] any facilities in that county and an approved company shall not be eligible for the ***inducements***[~~incentives~~] offered by KRS 154.22-010 to 154.22-070 unless the ***tax incentive***[~~financing~~] agreements required herein are entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that county. ***In addition, the authority shall certify coal-producing counties, not otherwise certified as qualified counties in this subsection,*** for economic development projects involving the new construction of electric generation facilities[~~, the authority shall certify every coal producing county as a qualified county~~]. A coal producing county shall mean a county in the Commonwealth of Kentucky that has produced coal upon which the tax imposed under KRS 143.020 was paid at any time.

(2) The authority shall establish the procedures and standards for the determination and approval of eligible companies and their economic development projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project.

(3) The economic development project shall involve a minimum investment of one hundred thousand dollars ($100,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final approval authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development project for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension.

(4) (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:

1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or

2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.

(b) If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. In addition to the applicable base hourly wage calculated above, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits.

(5) No economic development project which will result in the replacement of ***agribusiness,*** manufacturing***,*** or electric generation facilities existing in the state shall be approved by the authority; however, the authority may approve an economic development project that:

(a) Rehabilitates ***an agribusiness,***[~~a~~] manufacturing***,*** or electric generation facility:

1. Which has not been in operation for a period of ninety (90) or more consecutive days; or

2. ***For which the current occupant of the facility has published a notice of closure so long as the eligible company intending to acquire the facility is not an affiliate of the current occupant; or***

3. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;

(b) Replaces ***an agribusiness,***[~~a~~] manufacturing***,*** or electric generation facility existing in the Commonwealth:

1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or
2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

(c) Replaces an existing ***agribusiness,*** manufacturing***,*** or electric generation facility located in the same qualified county, and the existing ***agribusiness,*** manufacturing***,*** or electric generation facility to be replaced cannot be expanded due to the unavailability of real estate at or adjacent to the ***agribusiness,*** manufacturing***, or electric generation*** facility to be replaced. Any economic development project satisfying the requirements of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the ***agribusiness*** manufacturing***,*** or electric generation facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority which results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

(6)[~~(4)~~] With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. Upon review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project. After preliminary approval[~~ and completion by the eligible company of its bond, loan, or other financing and review thereof by the authority,~~] the authority may by final approval designate an eligible company to be an approved company.

Section 14. KRS 154.22-050 is amended to read as follows:

The authority may enter into, with any approved company, a ***tax incentive***[~~financing~~] agreement with respect to its economic development project, upon adoption of a resolution authorizing the ***tax incentive***[~~financing~~] agreement. Subject to the inclusion of the mandatory provisions set forth below, the terms and provisions of each ***tax incentive***[~~financing~~] agreement shall be determined by negotiations between the authority and the approved company.

(1) ***The tax incentive agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.***

(2) The approved company shall expend the authorized approved costs for the economic development project within three (3) years of the date of the final approval by the authority.

(3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.

(4) The term of the tax incentive agreement shall commence upon the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or fifteen (15) years after the activation date.

(5) The tax incentive agreement shall include the activation date. To implement the activation date, the approved company shall notify the authority, the Revenue Cabinet, and the approved company's employees of the activation date when the implementation of the inducements authorized in the tax incentive agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of subsection (3) of Section 13 of this Act by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the fifteen (15) year period for the term of the tax incentive agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of subsection (3) of Section 13 of this Act within two (2) years from the date of final approval of the tax incentive agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(6) The approved company shall comply with the hourly wage criteria set forth in subsection (4) of Section 13 of this Act and provide documentation in connection with hourly wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.

(7) The approved company may be permitted the following inducements during the term of the tax incentive agreement:

(a) A one-hundred percent (100%) credit against the Kentucky income tax that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising from the economic development project; and

(b) The aggregate assessments withheld by the approved company in each year.

(8) The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The total inducements may not exceed authorized cumulative approved costs paid by the approved company in the period commencing with the date of final approval.

(9) The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042 on the Kentucky taxable income generated by or arising from the economic development project.

(10) The tax incentive agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(11) The tax incentive agreement shall provide that if an approved company fails to comply with its obligations under the tax incentive agreement then the authority shall have the right, at its option, to:

(a) Suspend the income tax credits and assessments available to the approved company;

(b) Pursue any remedy provided under the tax incentive agreement, including termination thereof; and

(c) Pursue any other remedy at law to which it may be entitled.

(12) All remedies provided in subsection (11) of this section shall be deemed to be cumulative.~~[If an eligible company, at the time of submission of its application to the authority to become an approved company, requests the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with the issuance of bonds by the authority shall include the following provisions:~~

~~(a) The term of a financing agreement shall not be less than the last maturity of the bonds issued with respect to the economic development project, except that the financing agreement may terminate upon the earlier redemption of all of the bonds issued with respect to the economic development project and, if the authority owns the economic development project, the authority may grant to the approved company or its affiliate an option to purchase, for the consideration the authority may approve, the economic development project from the authority upon the termination of the financing agreement. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refunding of the correlative bonds or otherwise.~~

~~(b) All proceeds of any bonds incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of bonds incurred in connection with the economic development project are not fully expended within the three (3) year period, the amount of the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.~~

~~(c) The financing agreement shall specify that the annual obligations of the approved company pursuant to KRS 154.22-010 to 154.22-080 shall equal in each year the annual debt service for that year on the bonds issued with respect to the economic development project; and the approved company shall pay such obligation of the financing agreement to the trustee for bonds issued for the benefit of the approved company, at such time and in such amounts sufficient to amortize such bonds.~~

~~(d) 1. In consideration for financing agreement payment, the approved company may be permitted the following during the period of time not to exceed fifteen (15) years from the activation date in which the financing agreement is in effect, which period of time shall commence for purposes of the following upon the date of the financing agreement.~~

~~a. A one hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, the credit not to exceed the total debt service paid under the respective financing agreement; plus~~

~~b. The aggregate assessment withheld by the approved company in each year.~~

~~2. The income tax credited to the approved company referred to herein shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.~~

~~(e) 1. The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax herein granted, shall not exceed the total financing agreement annual payment by the approved company in any year; however, to the extent that financing agreement annual payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.~~

~~2. If in any fiscal year of the approved company during which the financing agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year.~~

~~3. If in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax.~~

~~4. If in any fiscal year of the approved company during which the financing agreement is in effect the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees' wages next succeeding the first date when the approved company collected excess assessments.~~

~~(f) The financing agreement shall provide in substance that:~~

~~1. It may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to such effect; and~~

~~2. Upon default by the approved company in any obligations under the financing agreement or other documents evidencing, securing, or related to the approved company's obligations, the authority, or any of its assignees, shall have the right, at its option, to declare the financing agreement or other such documents in default; and~~

~~a. Accelerate and declare the total of all such payments due by the approved company and sell the economic development project at public, private, or judicial sale;~~

~~b. Pursue any remedy provided under the financing agreement or other such documents;~~

~~c. Pursue all other remedies available to it under the Kentucky Uniform Commercial Code;~~

~~d. Be entitled to the appointment of a receiver by the Circuit Court wherein any part of the economic development project is located; and~~

~~e. Pursue any other remedy at law to which it appears entitled.~~

~~3. All remedies provided in subsection (1)(f)2. of this section shall be deemed cumulative.~~

~~(2) If an eligible company, at the time of submission of its application to the authority to become an approved company, does not request the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with loans or other financing (other than bonds issued by the authority for which subsection (1) of this section shall be used) shall include the following provisions:~~

~~(a) The term of a financing agreement, which shall commence on the date of the financing agreement, shall not be longer than:~~

~~1. The maturity of any loan or other financing incurred in connection with the economic development project, except that the financing agreement may terminate upon the earlier prepayment of all loans or other financing incurred in connection with the economic development project; or~~

~~2. Fifteen (15) years from the activation date.~~

~~3. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refinancing of the loans or other financing. The authority shall not own an economic development project that is the subject of this form of financing agreement.~~

~~(b) All proceeds of any loan or other financing incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic development project are not fully expended within the three (3) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.~~

~~(c) 1. The approved company may be permitted the following during the term of the financing agreement:~~

~~a. A one-hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, such credit not to exceed the total debt service paid with respect to the loans or other financing incurred in connection with the economic development project; plus~~

~~b. The aggregate assessment withheld by the approved company in each year.~~

~~2. The income tax credited to the approved company shall be credited for the fiscal year for which the tax~~

~~return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.~~

~~(d) 1. The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax as provided in KRS 154.22-060, shall not exceed the total annual debt service payments of the approved company with respect to the loans or other financing incurred in connection with the economic development project in any year; however, to the extent that such annual debt service payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.~~

~~2. If, in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company, plus the assessment collected from the wages of the employees, equals the annual debt service payments with respect to the loans or other financing incurred in connection with the economic development project, and if all excess payments with respect to the loans or other financing incurred in connection with the economic development project accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company and the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year.~~

~~3. If in any fiscal year of the approved company during which the financing agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax.~~

~~4. If in any fiscal year of the approved company during which the financing agreement is in effect the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees wages next succeeding the first date when the approved company collected excess assessments.~~

~~(e) The financing agreement shall provide in substance that it may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.~~

~~(f) The financing agreement shall provide that an approved company shall require of any lender to the approved company funding the loans or other financing incurred in connection with the economic development project written evidence to be provided to the authority of payments of all annual debt service to such lender. Such evidence shall be provided to the authority within forty-five (45) days after the end of each fiscal year of the financing agreement.~~

~~(g) The financing agreement shall provide that if an approved company fails to comply with its respective obligations under the financing agreement, or that the lender to an approved company fails to comply with its requirements set forth in subsection (2)(f) of this section, or is declared in default under the loans or other financing incurred in connection with the economic development project, then the authority, or any of its assignees, shall have the right, at its option, to:~~

~~1. Suspend the availability of the income tax credits and job development assessment fees to the approved company;~~

~~2. Pursue any remedy provided under the financing agreement, including termination thereof; and~~

~~3. Pursue any other remedy at law to which it appears entitled.~~

~~(3) All remedies provided in subsection (2)(g) of this section shall be deemed cumulative.~~

~~(4) Pursuant to this section, the activation date shall be established by the approved company in the financing agreement at any time in a two (2) year period after the date of final approval of the financing agreement by the authority. To implement the activation date, the approved company shall notify the authority, the Revenue Cabinet, and the approved company's employees of the activation date when the implementation of the inducements authorized in the financing agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040(3) by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the fifteen (15) year period for the term of the financing agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040(3) within two (2) years from the date of final approval of the financing agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.~~]

Section 15. KRS 154.22-060 is amended to read as follows:

(1) The approved company shall be entitled to a credit against the Kentucky income tax liability mandated by KRS Chapter 141, on any income that may result from the operation of the approved economic development project; the credit shall be equal to the total amount of the tax liability, and together with the aggregate assessments not to exceed the ***maximum amount of inducements as set forth in the tax incentive agreement***[~~total debt service paid:~~

~~(a) Under the financing agreement in connection with the economic development project financed by bonds as described in KRS 154.22-050(1); or~~

~~(b) On loans or other financing, as described in KRS 154.22-050(2), incurred in connection with the economic development project, as described in KRS 154.22-050(2)~~].

(2) By October 1 of each year, the Revenue Cabinet of the Commonwealth shall certify to the authority in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year, and assessments taken by approved companies with respect to their economic development projects during the prior calendar year under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits equal to its total inducements.

Section 16. KRS 154.22-070 is amended to read as follows:

(1) The approved company ***or, with the authority's consent, an affiliate of the approved company*** may require that each employee subject to state tax imposed by KRS 141.020, as a condition of employment, agree to pay ***an***[~~a job development~~] assessment[~~ fee~~], equal to four percent (4%) of the gross wages of each employee whose job was created as a result of the economic development project, for the purpose of ***recovering authorized approved costs as set forth in the tax incentive agreement.***[~~retiring:~~

~~(a) The bonds, as described in KRS 154.22-050(1), which fund the economic development project; or~~

~~(b) The loans or other financing as described in KRS 154.22-050(2), incurred in connection with the economic development project.~~]

(2) Each employee so assessed shall be entitled to credits against Kentucky income tax equal to the[~~ job development~~] assessment[~~ fee~~] withheld from wages during the calendar year as provided by KRS 141.310 and 141.350.

(3) If an approved company shall elect to impose the assessment as a condition of employment, it shall be authorized to deduct the assessment from each paycheck of each employee.

(4) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the authority at such reasonable times as the authority shall request and shall file with the authority documentation respecting the assessment as the authority may require.

[~~(5) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project pursuant to subsection (1) of this section shall permanently lapse on the date:~~

~~(a) The bonds, as described in KRS 154.22-050(1), are retired; or~~

~~(b) Any loans or other financing, as described in KRS 154.22-050(2), incurred in connection with the economic development project mature or are prepaid in full.~~]

SECTION 17. A NEW SECTION OF SUBCHAPTER 22 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

If the authority adopts a preliminary resolution designating an eligible company as an approved company and preliminarily approving the project of the eligible company as an economic development project prior to July 15, 2002, and the authority adopts a final resolution approving the eligible company as an approved company and the project of the eligible company as an economic development project, and the authority and the eligible company enter into a financing agreement no later than June 30, 2003, then the approved company thereafter shall be subject to KRS 154.22-010 to 154.22-100 as in effect prior to July 15, 2002.

Section 18. KRS 154.23-010 is amended to read as follows:

As used in KRS 154.23-005 to 154.23-079, unless the context clearly indicates otherwise:

(1) "Approved company" means an eligible company that locates an economic development project in a qualified zone, as provided for in KRS 154.23-030;

(2) "Approved costs" means:

(a) For an approved company that establishes a new manufacturing facility or expands an existing manufacturing facility, the following obligations incurred in its economic development project, including rent under leases subject to subsection (6)(b)4. of this section:

1. The cost of labor, contractors, subcontractors, builders, and material workers in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

2. The cost of acquiring real estate or rights in land and any cost incidental thereto, including recording fees;

3. The cost of contract bonds and insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project that is not paid by the contractor or contractors or otherwise provided for;

4. The cost of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all duties required by or consequent to the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

5. All costs required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

6. All other costs of a nature comparable to those described above; or

(b) For an approved company that establishes a new service or technology business or expands existing service or technology operations, up to a maximum of fifty percent (50%) of the total start-up costs during the term of the service and technology agreement, plus up to a maximum of fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(3) "Assessment" means the job development assessment fee authorized by KRS 154.23-055;

(4) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;

(5) ***"Average hourly wage" means the most current wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand and eighty (2,080) hour work year for the following sectors:***

(a) Manufacturing;

(b) Transportation, communications and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance and real estate; and

(e) Services;

(6) "Commonwealth" means the Commonwealth of Kentucky;

(7)[~~(6)~~] "Economic development project" or "project" means:

(a) A service or technology activity conducted by an approved company; or

(b) Any of the following activities of an approved company engaged in manufacturing:

1. The acquisition of or present ownership in any real estate in a qualified zone for the purposes described in KRS 154.23-005 to 154.23-079, which ownership shall include only fee simple ownership of real estate and possession of real estate according to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976;

2. The acquisition or present ownership of improvements or facilities on land that is possessed or is to be possessed by the approved company in a ground lease having a term of sixty (60) years or more; provided, however, that this project shall not include lease payments made under a ground lease for purposes of calculating the tax credits offered under KRS 154.23-005 to 154.23-079;

3. The construction, installation, equipping, and rehabilitation of improvements, fixtures, equipment, and facilities necessary or desirable for improvement of the real estate owned, used, or occupied by the approved company for manufacturing purposes. Construction activities include surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and providing drainage and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electric, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; or similar activities as the authority may determine necessary for construction; and

4. The leasing of real estate and the buildings and fixtures thereon acquired, constructed, and installed with funds from grants under KRS 154.23-060;

(8)[~~(7)~~] "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other legal entity engaged in manufacturing, or service or technology; however, any company whose primary purpose is retail sales shall not be an eligible company;

(9) "Employee benefits" means non-mandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(K) or similar plans;

(10)[~~(8)~~] "Final approval" means action taken by the authority that authorizes the eligible company to receive inducements in connection with a project under KRS 154.23-005 to 154.23-079;

(11) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per

week and subject to the state income tax imposed by KRS 141.020;

[~~(9) "Financing agreement" means any agreement entered into, under KRS 154.23-035, on behalf of the authority or other lenders, or both, and an approved company engaged in manufacturing with respect to an economic development project;~~]

(12)[~~(10)~~] "Inducements" means the assessment and the income tax credits allowed to an approved company under KRS 154.23-050 and 154.23-055;

(13)[~~(11)~~] "Local government" means a city, county, or urban-county government;

(14)[~~(12)~~] "Manufacturing" means to make, assemble, process, produce, or perform any other activity that changes the form or conditions of raw materials and other property, and shall include any ancillary activity to the manufacturing process, such as storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, the extraction of minerals or coal, or processing of these resources;

(15)[~~(13)~~] "Preliminary approval" means action taken by the authority that conditions final approval of an eligible company and its economic development project upon satisfaction by the eligible company of the applicable requirements under KRS 154.23-005 to 154.23-079;

(16)[~~(14)~~] "Qualified employee" means an individual subject to Kentucky income tax who has resided in the qualified zone where the project exists for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(17)[~~(15)~~] "Qualified statewide employee" means an individual subject to Kentucky income tax who has resided in any census tract or county in the Commonwealth that meets the criteria in KRS 154.23-015, regardless of whether the tract or county is in a qualified zone, for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(18)[~~(16)~~] "Qualified zone" means any census tract or county certified as such by the authority in KRS 154.23-015 and 154.23-020;

(19)[~~(17)~~] "Relocation costs" mean identified expenditures by an eligible company for moving costs, separation costs, and any other expenditures substantiated by the eligible company that are directly related to a move from an existing location outside of a qualified zone to a qualified zone location;

(20)[~~(18)~~] "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved project for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved project for which the inducement has been granted as determined by the authority using criteria that are customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized; and

(c) Rent shall include the customary cost of occupancy that includes, but is not limited to, property taxes, heating and air conditioning, electricity, sewer, and insurance;

(21)[~~(19)~~] "Service and technology agreement" means any agreement entered into, under KRS 154.23-040, on behalf of the authority, an approved company engaged in service or technology, and third-party lessors, if applicable, with respect to an economic development project;

(22)[~~(20)~~] "Service or technology" means any activity involving the performance of work not otherwise classified by division, including successor divisions of agriculture, forestry and fishing, mining, construction, and manufacturing, in accordance with the "Standard Industrial Classification Manual," as revised by the United States Office of Management and Budget from time to time, or any successor publication;[~~ and~~]

(23)[~~(21)~~] "Start-up costs" mean the cost of furnishing and equipping a building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment, and relocation costs as verified and approved by the authority in accordance with KRS 154.23-040*;*[~~.~~]

(24) "Tax incentive agreement" means that agreement entered into, pursuant to Section 22 of this Act, between the authority and an approved company with respect to an economic development project; and

(25) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended.

Section 19. KRS 154.23-015 is amended to read as follows:

(1) Upon written application by a county, urban-county government, or city of the first class, the authority shall certify one (1) to five (5) contiguous census tracts or a county certified by the authority in accordance with KRS 154.22-040 as a qualified zone. In the case of certification based on one (1) to five (5) contiguous census tracts, each census tract shall independently meet each of the following criteria, as verified by the Department for Employment Services within the Cabinet for Workforce Development:

(a) A minimum total poverty rate of one hundred fifty percent (150%) of the United States poverty rate as determined by the most recent decennial census;

(b) An unemployment rate that exceeds the statewide unemployment rate as determined on the basis of the most recent decennial census; and

(c) A minimum population density of two hundred percent (200%) of the average Kentucky census tract population density as determined by the most recent decennial census.

(2) Census tract information shall be based upon United States census data as set forth in the most recent edition of Census of Population and Housing: Population and Housing Characteristics for Census Tracts and Block Numbering Areas published by the United States Bureau of the Census.

(3) The authority shall certify no more than one (1) qualified zone within each county of the Commonwealth, except in the case of a county certified under KRS 154.22-040, the entire county shall constitute the qualified zone.

(4) A qualified zone shall commence on the date of certification by the authority and continue thereafter, except that at the time new decennial census data becomes available, the authority shall decertify any census tract that no longer meets the criteria of subsection (1) of this section for qualified zone status. The authority shall not give preliminary approval to any project in a decertified census tract. An approved company whose project is located in a decertified census tract shall not be eligible for the inducements offered by KRS 154.23-005 to 154.23-079, unless the ***tax incentive***[~~financing~~] agreement or service and technology agreement is entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that tract.

(5) Decertification of a census tract by the authority under subsection (4) of this section shall not be construed to split a qualified zone, change the boundary of the initial qualified zone, or create more than one (1) qualified zone per county.

(6) A county, urban-county government, or city of the first class shall have no authority to request decertification of a census tract, and any addition of a census tract requested by a county, urban-county government, or city of the first class under KRS 154.23-020 shall be contiguous to a census tract that continues to meet the criteria under this section.

(7) The authority shall pay its costs of counsel relating to zone certification.

Section 20. KRS 154.23-025 is amended to read as follows:

(1) Relevant standards for approval of eligible companies and economic development projects shall include, but are not limited to, creditworthiness of the eligible company, the number of new jobs to be provided by a project to Kentucky residents, and the likelihood that the project will be an economic success.

(2) An eligible company shall certify to the authority by written application that it makes the following commitments in an economic development project:

(a) A minimum investment of one hundred thousand dollars ($100,000) in the project;

(b) Creation of a minimum of ten (10) new full-time jobs at the project site for qualified employees;

(c) A statement that no significant number of existing jobs in the Commonwealth will be lost or adversely affected due to approval of the eligible company and its economic development project; and

(d) A statement that the economic development project could reasonably and efficiently locate outside the qualified zone and, without the inducements offered by the authority, the eligible company would likely locate outside the zone.

(3) (a) No project that will result in the replacement of an existing manufacturing or service or technology facility existing in the Commonwealth shall be approved by the authority; however, the authority may approve a project if the project ***is one***:

1. ***a.*** ***That*** rehabilitates a manufacturing or service or technology facility that has not been in operation***; or***

b. ***For which the current occupant of the facility has published a notice of closure so long as the eligible company intending to acquire the facility is not an affiliate of the current occupant;***[~~,~~] or

c. ***To which*** the title to which is vested in one other than the eligible company and that is sold or transferred under a foreclosure ordered by a court of competent jurisdiction or by order of bankruptcy court;

2. Replaces a manufacturing or service or technology facility existing in the Commonwealth that been damaged or destroyed by fire, or the title to which shall have been taken under the exercise of the power of eminent domain or is the subject of a nonappealable judgment that grants the power of eminent domain to the authority, in any of these events to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

3. Replaces an existing manufacturing or service or technology facility located in the same qualified zone that cannot be expanded due to the lack of available real estate at or adjacent to the manufacturing or service or technology facility to be replaced. Any economic development project satisfying the requirements of this paragraph of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing or service or technology facility to be replaced.

(b) No economic development project otherwise satisfying the requirements of paragraph (a) of this subsection shall be approved by the authority that results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

(4) (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety

percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:

1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or

2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.

(b) If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. In addition to the applicable base hourly wage calculated above, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits.

Section 21. KRS 154.23-030 is amended to read as follows:

(1) With respect to each eligible company that applies to the authority for inducements, and with respect to the project described in its application, the authority shall request materials and make all inquiries concerning the application the authority deems necessary. Upon review of the application and requested materials, and completion of initial inquiries, the authority may, by resolution of the board of directors, grant preliminary approval to the eligible company. The authority shall approve a report describing the economic development project, that shall set out as follows:

(a) The name, qualified zone location, business, and standard industrial classification of the eligible company;

(b) The nature of the economic development project;

(c) The use and projected amounts of the inducements to be available to the eligible company by year; and

(d) Other information as the authority may require.

(2) After preliminary approval,[~~ completion of its loan, other financing or leasing as permitted by KRS 154.23-010(6)(b)4. by an eligible company engaged in manufacturing activities with respect to its economic development project, and review thereof by the authority,~~] the authority may, by resolution of its board of directors, designate an eligible company to be an approved company, and execute a *tax incentive*[~~financing~~] agreement ***between***[~~among~~] the ***approved***[~~eligible~~] company ***and***[~~,~~] the authority[~~, lenders, if applicable, and lessor, if applicable~~].

(3) Within a one (1) year period following preliminary approval of an eligible company engaged in service or technology activities with respect to its economic development project, the authority may designate the eligible company as an approved company and execute a service and technology agreement among the ***approved***[~~eligible~~] company, the authority, and lessors, if applicable. If final approval of an eligible company does not occur within the one (1) year period as provided in this subsection, then the eligible company's request for designation and project authorization shall be considered denied.

(4) The decision to grant an eligible company the status of an approved company shall be solely that of the authority, which shall base its decision upon consideration of all information provided.

Section 22. KRS 154.23-035 is amended to read as follows:

[~~(1)~~]The authority, upon adoption of an authorizing resolution, may enter into a *tax incentive*[~~financing~~] agreement with any approved company engaged in manufacturing activities with respect to its economic development project[~~, other lenders, if applicable, and lessor, if applicable~~]. The terms and provisions of each *tax incentive*[~~financing~~] agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, subject to the inclusion of the following mandatory provisions:

(1) The tax incentive agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.

(2) The approved company shall expend the authorized approved costs within three (3) years of the date of the final approval by the authority.

(3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.

(4) The term of the tax incentive agreement shall commence upon the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or ten (10) years after the activation date.

(5) The tax incentive agreement shall include the activation date, which shall be a date selected by the approved company within two (2) years of the date of final approval by the authority of the tax incentive agreement. If the approved company does not satisfy the minimum investment and minimum employment requirements of Section 20 of this Act by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the ten (10) year period for the term of the tax incentive agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved

company does not satisfy the minimum investment and minimum employment requirements of Section 20 of this Act within two (2) years from the date of final approval of the tax incentive agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(6) The approved company shall comply with the hourly wage criteria set forth in subsection (4) of Section 20 of this Act and provide documentation in connection with hourly wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.

(7) The approved company may be permitted the following inducements during the term of the tax incentive agreement:

(a) A one-hundred percent (100%) credit against the Kentucky income tax that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.401, to the Commonwealth by the approved company on the income of the approved company generated by or arising from the economic development project; and

(b) The aggregate assessments withheld by the approved company each year.

(8) The total inducements may not exceed authorized cumulative approved costs paid by the approved company in the three (3) year period commencing with and after the date of final approval.

(9) The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042 on the Kentucky taxable income generated by or arising from the economic development project.

(10) The tax incentive agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(11) The tax incentive agreement shall provide that if the total number of full-time qualified employees at the site of the economic development project is less than ten (10), the authorized inducements shall be suspended until at least ten (10) full-time qualified employees are employed by the approved company at the project site.

(12) The tax incentive agreement shall provide that if an approved company fails to comply with its obligations under the tax incentive agreement then the authority shall have the right, at its option, to:

(a) Suspend the income tax credits and assessments available to the approved company;

(b) Pursue any remedy provided under the tax incentive agreement, including termination thereof; and

(c) Pursue any other remedy at law to which it may be entitled.

(13) All remedies provided in subsection (12) of this section shall be deemed to be cumulative.

(14) The approved company shall pay all costs of counsel to the authority resulting from approval of its economic development project.

[~~(a) The term of a financing agreement, that shall commence on the date of the financing agreement, and shall not be longer than the earliest of:~~

~~1. The maturity of any loan or other financing incurred in connection with the economic development project, except that the financing agreement may terminate upon the earlier prepayment of all loans or other financing incurred in connection with the economic development project;~~

~~2. The termination of any lease under KRS 154.23-010(6)(b)4.; or~~

~~3. Ten (10) years from the activation date of the original financing agreement.~~

~~4. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refinancing of the loans or other financing, or the financing of the balance of the purchase price of an economic development project originally leased in accordance with KRS 154.23-010(6)(b)4.~~

~~(b) All proceeds of any loan or other financing incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic development project are not fully expended within the three (3) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period;~~

~~(c) The approved company may be permitted the following inducements during the term of the financing agreement:~~

~~1. An income tax credit of up to one hundred percent (100%) of the Kentucky income tax liability imposed by KRS 141.020 or 141.040 that would otherwise be due, determined under KRS 141.401, on the income of the approved company generated by or arising out of the economic development project, as limited by the provisions of this section and KRS 154.23-045; and~~

~~2. The assessment, if applicable, withheld by the approved company in each year;~~

~~(d) The income tax credit for the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042;~~

~~(e) The assessments, if applicable, when added to the credit for the Kentucky income tax as provided in KRS 154.23-050, shall not exceed the total annual payment made under the financing agreement in connection with the project in any year; however, to the extent that this annual payment exceeds credits received and assessments collected in any year, this excess payment may be recouped from excess credits or assessment collections in succeeding years;~~

~~(f) If, in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company plus the assessments collected from the wages of the qualified statewide employees equals the annual payment in the financing agreement, and if all excess payments in the financing agreement accumulated in prior years have been recouped, the assessments collected from the wages of the qualified statewide employees shall cease for the remainder of that fiscal year, and the approved company shall resume normal personal income tax and occupational license fee withholdings from the qualified statewide employees' wages for the remainder of that fiscal year;~~

~~(g) If, in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the qualified statewide employees exceeds the annual payment in the financing agreement, and if all excess payments in the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax;~~

~~(h) If, in any fiscal year of the approved company during which the financing agreement is in effect, the assessment collected from the wages of qualified statewide employees exceeds the annual payment in the financing agreement, and if all excess payments in the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the qualified statewide employees shall cease for the remainder of that fiscal year, the approved company shall resume normal personal income tax and occupational license fee withholdings from the qualified statewide employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for qualified statewide employees' wages next succeeding the first date when the approved company collected excess assessments;~~

~~(i) The financing agreement may be assigned by the approved company only upon the prior written consent of the authority;~~

~~(j) An approved company shall require any lender to the approved company funding loans or other financing incurred in connection with the economic development project to provide written evidence to the authority of payments of all annual debt service to the lender. An approved company shall require any lessor under a lease subject to KRS 154.23-010(6)(b)4. to provide written evidence to the authority of payment of rent to the lessor. This evidence shall be provided to the authority within forty five (45) days after the end of each fiscal year during the term of the financing agreement;~~

~~(k) If the total number of qualified employees at the site of the economic development project is less than ten (10), the authorized inducements shall be suspended until at least ten (10) full-time qualified employees are employed by the approved company at the project site;~~

~~(l) If an approved company fails to comply with its respective obligations under the financing agreement or is declared in default under the loans or other financing incurred in connection with the economic development project or the lease under KRS 154.23-010(6)(b)4., or if the lender to an approved company or the lessor, as applicable, fails to comply with its requirements set forth in subsection (1)(j) of this section, then the authority, or any of its assignees, shall have the right, at its option, to:~~

~~1. Suspend the availability of the income tax credits and assessments to the approved company;~~

~~2. Pursue any remedy provided under the financing agreement, including termination thereof; and~~

~~3. Pursue any other remedy at law to which it appears entitled; and~~

~~(m) The approved company shall pay all costs of counsel to the authority resulting from approval of its economic development project.~~

~~(2) All remedies provided in subsection (1)(l) of this section shall be deemed cumulative.~~

~~(3) Under this section, the activation date shall be established by the approved company in the financing agreement, which shall be at any time within a two (2) year period after the date of final approval of the financing agreement by the authority. To implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, the approved company's qualified statewide employees, and the affected local jurisdictions, if any, of the activation date when implementation of the inducements authorized in the financing agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.23-025 by the activation date, then the approved company shall not be entitled to receive inducements under KRS 154.23-005 to 154.23-079 until the approved company satisfies the requirements; in any event, the ten (10) year period for the term of the financing agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.23-025 within two (2) years from the date of final approval of the financing agreement, then the approved company shall be ineligible to receive~~

~~inducements under KRS 154.23-005 to 154.23-079.]~~

Section 23. KRS 154.23-045 is amended to read as follows:

(1) If an eligible company operates an existing business in a qualified zone, and wishes to expand that business within the zone, the eligible company may submit an application to the authority to become an approved company under KRS 154.23-025.

(2) If the eligible company under subsection (1) of this section becomes an approved company, the authority shall determine a base level of employment in the Commonwealth, a base level of state income tax liability, and a base level of manufacturing or service or technology activity, as applicable, of the approved company for determining eligible credits for the approved company's project during the term of a ***tax incentive***[~~financing~~] agreement or service and technology agreement. The base level shall be determined by taking into consideration any seasonal fluctuations or aberrations of employment levels during the preceding three (3) years. Notwithstanding the determination of a base level of employment in the Commonwealth, no qualified statewide employee who is an employee of this business prior to the date of the preliminary approval by the authority as prescribed in KRS 154.23-030 shall be subject to assessment.

(3) The authority shall identify, by name, all of the existing qualified statewide employees employed by the eligible company prior to preliminary approval, and these employees shall be exempt from the assessment. If any of these employees cease working in the activity, then another qualified statewide employee shall be added to the base level of employment, based on the earliest date of entry into the work force, and this employee shall be exempt from the assessment. The authority may negotiate with the approved company a different method of determining the base level of employment that would yield a more equitable result for the approved company, the Commonwealth, local jurisdictions, and the qualified statewide employees.

(4) To become eligible for inducements, the approved company shall create and maintain above the base level of employment in the Commonwealth, an increase at the site of the project of at least ten (10) new full-time qualified employees.

(5) The approved company shall continue to pay to the Commonwealth, on an annualized basis during the term of the ***tax incentive***[~~financing~~] agreement or service and technology agreement, as applicable, the base level of income tax, adjusted on an annual basis to reflect changes in the consumer price index. The excess income tax owed may be offset by the income tax credit provided in KRS 154.23-050.

(6) If any approved company expands in a qualified zone because of an increase in business or because of the commencement of a new line of business, it may be eligible, at the discretion of the authority, to negotiate a separate, additional ***tax incentive***[~~financing~~] agreement or service and technology agreement to cover the expanded business under the same conditions as authorized for an expansion in this section.

Section 24. KRS 154.23-055 is amended to read as follows:

(1) If the local jurisdiction in which the economic development project is to be located, approves the assessment in accordance with subsection (8) of this section, then an approved company engaged in either manufacturing or service or technology activities may require each qualified statewide employee, as a condition to employment, to agree to pay ***an***[~~a job development~~] assessment[~~ fee~~] in an amount determined by the percentage of the local occupational license fee, which shall be one-fifth (1/5) of the total[~~ job development~~] assessment[~~ fee~~], plus the Commonwealth's contribution of four-fifths (4/5) of the total[~~ job development~~] assessment[~~ fee~~], but in no event to exceed five percent (5%) of the qualified statewide employee's gross wages exclusive of any noncash benefits; provided that each qualified statewide employee paying the assessment shall be entitled to credits against Kentucky income tax as prescribed in subsection (4) of this section and to credits against the local occupational license fee to the extent of the local occupational license fee collected by the local jurisdiction. This assessment shall be deducted by the approved company from wages it pays to qualified statewide employees.

(2) Notwithstanding subsection (1) of this section, if no local occupational license fee is assessed by any local government in which the project is located, the assessment shall be four percent (4%), all of which shall be contributed by the Commonwealth.

(3) Notwithstanding subsection (1) of this section, if a project is located in only one (1) local government and that local government has a local occupational license fee that is less than one percent (1%) and the local government agrees to forgo all of its local occupational license fee or if a project is located in multiple local governments and the local governments have in the aggregate local occupational license fees that are less than one percent (1%) and the local governments agree to forgo all of their local occupational license fees, then the assessment shall be four percent (4%), all of which shall be contributed by the Commonwealth, plus the percentage of the local occupational license fee or fees, as applicable, that the local government or local governments, as applicable, has or have agreed to forgo.

(4) Each qualified statewide employee required to pay this assessment shall be entitled to certain credits, as follows:

(a) Credit against the required Kentucky income tax withheld from gross wages under KRS 141.310 equal to the Commonwealth's contribution, but in no event to exceed four percent (4%) of these wages; and

(b) Credit against the local occupational license fee imposed by any local government in which the project is located in the form of a simultaneous adjustment of the local occupational license fee withheld from gross wages excluding noncash benefits not to exceed one percent (1%) of these wages.

(5) If more than one (1) local government jurisdiction imposes a local occupational license fee and all jurisdictions approve the assessment, then the assessment and employee credit therefor shall be prorated against the local occupational license fees imposed, unless a single local government jurisdiction agrees to forgo receipt of its local occupational license fees in an amount equal to one percent (1%) of the qualified statewide employees' wages excluding noncash benefits, in which case no proration need be made.

(6) No credit, or portion thereof, shall be allowed against any occupational license fee imposed by or dedicated solely to the board of education in a local jurisdiction.

(7) An approved company that collects an assessment shall make its payroll, books, and records available to the authority at its request, and shall provide all documentation pertaining to the assessment as the authority may require.

(8) Before any ***tax incentive***[~~financing~~] agreement or service and technology agreement becomes effective with respect to an assessment, the legislative body of any local government that assesses a local occupational license fee and shall lose revenue as a result of the assessment described in this section shall, by official action, approve the assessment for the benefit of an approved company. However, if a local government does not approve the assessment, then the approved company shall not be permitted to impose the assessment and the qualified statewide employees shall not be permitted to claim credits.

[~~(9) Any assessment of the wages of qualified statewide employees of an approved company engaged in manufacturing activities in connection with their employment at an economic development project in subsection (1) of this section shall permanently lapse as of the date any loans or other financing, as described in KRS 154.23-035, incurred in connection with the economic development project mature or are prepaid in full for an approved company engaged in manufacturing activities or as of any date any lease under KRS 154.23-010(6)(b)4. terminates.~~]

(9)[~~(10)~~] Any assessment of the wages of qualified statewide employees of an approved company engaged in service or technology activities in connection with their employment at an economic development project shall permanently cease at the expiration of the service and technology agreement.

Section 25. KRS 154.24-010 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings in KRS 154.24-010 to 154.24-150:

(1) ***"Affiliate" means the following:***

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(2) "Agreement" means *the service and technology*[~~any~~] agreement made pursuant to KRS 154.24-120, between the authority and an approved company with respect to an economic development project;

(3)[~~(2)~~] "Approved company" means any eligible company seeking to locate an economic development project from outside the Commonwealth into the Commonwealth, or undertaking an economic development project in the Commonwealth for which it is approved pursuant to KRS 154.24-100;

(4)[~~(3)~~] "Approved costs" means fifty percent (50%) of the total of the start-up costs up to a maximum of ten thousand dollars ($10,000) per new full-time job created and to be held by a Kentucky resident subject to the personal income tax of the Commonwealth, plus fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(5)[~~(4)~~] "Assessment" means the "service and technology job creation assessment fee" authorized by KRS 154.24-110;

(6)[~~(5)~~] "Authority" means the Kentucky Economic Development Finance Authority*, as* created in KRS 154.20-010;

(7) "Average hourly wage" means the most current wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand and eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(8)[~~(6)~~] "Commonwealth" means the Commonwealth of Kentucky;

(9)[~~(7)~~] "Economic development project" or "project" means a service or technology activity conducted by an approved company;

(10)[~~(8)~~] "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in service or technology and meeting the standards promulgated by the authority in accordance with KRS Chapter 13A;

(11) "Employee benefits" means nonmandated costs paid by an approved company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(K) or similar plans;

(12)[~~(9)~~] "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(13) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state tax imposed by KRS 141.020;

(14)[~~(10)~~] "In lieu of credits" means a local government appropriation to the extent permitted by law, or other form of local government grant or service benefit, directly related to the economic development project and in an amount equal to one

percent (1%) of employees' gross wages, exclusive of any noncash benefits provided to an employee, or the provision by a local government of an in-kind contribution directly related to the economic development project and in an amount equal to one half (1/2) of the rent for the duration of the agreement;

(15)[~~(11)~~] "Inducements" means the income tax credits allowed and the assessment authorized by KRS 154.24-110, which are intended to induce companies engaged in service and technology industries to locate or expand in the Commonwealth;

(16)[~~(12)~~] "Person" means an individual, sole proprietorship, partnership, registered limited liability partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation, any instrumentality, division, political subdivision, district, court, agency, or department thereof;

(17)[~~(13)~~] "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(18)[~~(14)~~] "Relocation costs" means the identified expenditures by the company for moving costs, separation costs, and any other expenditures substantiated by the company which directly related to the move from an existing location outside of Kentucky to locations approved by the authority;

(19)[~~(15)~~] "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved activity for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved activity for which the inducement has been granted as determined by the authority using criteria which is customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized;

(c) Rent shall include the customary cost of occupancy including, but not limited to, property taxes, heating and air-conditioning, electricity, water, sewer, and insurance;

(20)[~~(16)~~] "Service or technology" means any activity involving the performance of work not otherwise classified by division, including successor divisions of agriculture, forestry and fishing, mining, construction, and manufacturing, in accordance with the "Standard Industrial Classification Manual," as revised by the United States Office of Management and Budget from time to time, or any successor publication. A company otherwise engaged in an ineligible activity may operate a service and technology activity in a separate division and, with the approval of the authority and subject to the record keeping requirements established by the authority, the service and technology activity may be deemed an eligible activity; and

(21)[~~(17)~~] "Start-up costs" means the ***acquisition*** cost of furnishing and equipping the building for ordinary business functions, including computers,[~~ nonrecurring costs of fixed telecommunication equipment,~~] furnishings, office equipment,[~~ and~~] relocation costs***, and nonrecurring costs of fixed telecommunication equipment*** as verified and approved by the authority in accordance with KRS 154.24-130.

Section 26. KRS 154.24-090 is amended to read as follows:

The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A, regarding the approval of eligible companies and economic development projects conducted by those companies. The criteria for approval of eligible companies and economic development projects shall include, but not be limited to, the following criteria:

(1) A determination by the authority that more than seventy-five percent (75%) of services provided by the eligible company from the proposed project shall be provided for persons located outside the Commonwealth during each year of the period during which it receives inducements as authorized in KRS 154.24-110;

(2) The economic development project shall result in the creation by the eligible company of a minimum of ***fifteen (15)***[~~twenty-five (25)~~] new full-time jobs for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth ***at the activation date which shall occur*** within one (1) year of the date of the final resolution authorizing the economic development project. The authority may extend this one (1) year period upon the written application of an eligible company requesting an extension;

(3) (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:

1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or

2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.

(b) If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. In addition to the base hourly wages, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wages; however, if the

eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wages, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wages through increased hourly wages combined with employee benefits;

(4)[~~(3)~~] Written evidence that:

(a) Approval of the economic development project and the resulting inducements to be offered are essential to the creation of new jobs in the Commonwealth by an eligible company in connection with its economic development project; and

(b) No significant number of existing jobs in the Commonwealth will be lost, or adversely affected, due to the designation of an eligible company as an approved company, and to the approval of the eligible company's economic development project; and

(5)[~~(4)~~] That the economic development project could reasonably and efficiently locate outside of the Commonwealth and, without the inducements offered by the authority, the eligible company would likely locate outside the state.

Section 27. KRS 154.24-110 is amended to read as follows:

(1) The approved company shall be entitled to an income tax credit equal to one hundred percent (100%) of the income tax that would otherwise be due to the Commonwealth by the approved company attributable to the economic development project, as limited by the provisions of this section and KRS 154.24-130. The amount of the approved company's income that is attributable to the economic development project shall be determined under KRS 141.407.

(a) The income tax credit allowed to the approved company shall be subtracted from the approved cost balance in the fiscal year of the approved company for which the tax return of the approved company is filed; and

(b) By October 1 of each year, the Revenue Cabinet of the Commonwealth shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year, and assessments taken by approved companies with respect to their economic development projects during the prior calendar year under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits and assessments equal to its total inducements.

(2) The approved company ***or, with the authority's consent, an affiliate of the approved company*** may require each employee, subject to state tax imposed by KRS 141.020, as a condition of employment, to agree to pay a service and technology job creation assessment fee up to five percent (5%) of the gross wages exclusive of any noncash benefits provided to an employee for each employee whose job has been deemed by the authority to be created as a result of the economic development project, provided that the service and technology job creation assessment fee shall not exceed the amount determined in accordance with KRS 154.24-150(5) if the circumstances in that subsection apply. Where a person is already employed by the approved company at a site other than the site of the economic development project and where that employee is subject to state tax imposed by KRS 141.020, the employee's job shall be deemed to have been created when the employee is transferred to the site of the economic development project, provided that the employee's existing job is filled with a new employee.

(a) Each employee paying the assessment shall be entitled to a credit against his Kentucky income tax required to be withheld under KRS 141.310 equal to four-fifths (4/5) of the assessment;

(b) If the assessment has been approved by the local jurisdiction as provided in KRS 154.24-150, each employee paying the assessment also shall be entitled, in the local jurisdiction in which the economic development project is located, to a credit against his local occupational license fee in the form of a simultaneous adjustment of his local occupational license fee withholding equal to one-fifth (1/5) of the assessment. If more than one (1) local tax is incurred, the one-fifth (1/5) assessment shall be prorated proportionately among the taxes unless one (1) local jurisdiction agrees to forgo the receipt of these taxes in an amount equal to the one-fifth (1/5) assessment, in which case no proration need be made;

(c) If an approved company elects to impose the assessment as a condition of employment, it shall be authorized to deduct the assessment from each payment of wages to the employee;

(d) No credit, or portion thereof, shall be allowed against any occupational license fee imposed by or dedicated solely to the board of education in a local jurisdiction;

(e) The approved company collecting an assessment shall make its payroll, books, and records available to the authority when the authority shall request, and shall file with the authority documentation pertaining to the assessment as the authority may require; and

(f) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project shall permanently cease at the expiration of the agreement.

(3) Notwithstanding subsection (2) of this section, if a local government in which the project is located has a local occupational license fee that is less than one percent (1%) and agrees to forgo all of its local occupational license fee, then the assessment shall be four percent (4%), all of which shall be contributed by the Commonwealth, plus the percentage of

the local occupational license fee that the local government has agreed to forgo. Each employee paying the assessment under this subsection shall be entitled to a credit against Kentucky income tax, under KRS 141.350, equal to four percent (4%) and a credit against the local occupational license fee equal to the local occupational license fee that the local jurisdiction has agreed to forgo.

Section 28. KRS 154.24-120 is amended to read as follows:

Before any approved company is granted inducements as prescribed in KRS 154.24-010 to 154.24-150, a service and technology agreement with respect to the company's economic development project shall be entered into between the authority and the approved company. The terms and provisions of the agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(1) The term of an agreement shall not be longer than ten (10) years from the activation date established by the approved company. The activation date shall be any time within a one (1) year period after the date of final approval of the agreement by the authority. In order to implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, the employees, and the affected local ***jurisdictions***[~~jurisdiction~~], if any, of the activation date on which implementation of the inducements authorized in the agreement shall occur.

(2) The agreement shall include:

(a) A description of the authorized inducements to be used by the approved company;

(b) A provision that, if the total number of full-time employees at the site of the economic development project who are residents of the Commonwealth and[~~ who are~~] subject to the Kentucky income tax is less than ***fifteen (15)***[~~twenty-five (25)~~], or in the case of an existing Kentucky business the approved company fails to maintain the increase of at least ***fifteen (15)***[~~twenty-five (25)~~] full-time employees who are residents of the Commonwealth and[~~ who are~~] subject to the Kentucky income tax, the authorized inducements shall be suspended until the number of full-time employees at the site of the economic development project who are residents of the Commonwealth and[~~ who are~~] subject to the Kentucky income tax equals or exceeds ***fifteen (15)***[~~twenty-five (25)~~]; or in the case of an existing Kentucky business until the maintenance requirement of subsection (4) of KRS 154.24-140 is satisfied;

(c) A provision that, if seventy-five percent (75%) or less of services provided by the approved company from the economic development project should be provided to persons located outside of the Commonwealth during any fiscal year of the approved company as prescribed in KRS 154.24-090, the authorized inducements shall be suspended until the percentage of these services again exceeds seventy-five percent (75%) for a full fiscal year of the approved company; and

(d) A provision that neither income tax credits nor assessments are assignable without written consent by the authority.

Section 29. KRS 154.24-140 is amended to read as follows:

(1) If an eligible company operates an existing service and technology business in Kentucky, and wishes to expand that business within the Commonwealth, the eligible company may submit an application to the authority to become an approved company and eligible for the inducements offered in KRS 154.24-010 to 154.24-150.

(2) If an existing business becomes an approved company, the authority shall determine a base level of employment, a base level of state income tax liability, and a base level of services of the approved company for determining eligible credits in remaining years of the approved company's project period. The base level shall be determined by taking into consideration any seasonal fluctuations or aberrations of employment levels over a preceding three (3) year period. Notwithstanding the determination of a base level of employment, no employee of the existing business who is an employee of such business prior to the date of the preliminary resolution of the authority as prescribed in KRS 154.24-100 shall be subject to assessment.

(3) The authority shall identify, by name, all of the existing employees engaged in the service and technology activity, and these employees shall be exempt from the assessment. If any of these employees cease working in the activity, another employee shall be added to the base level of employment, based on the earliest date of entry into the work force, and he shall be exempt from the assessment. The authority may negotiate with the approved company a different method of determining the base level of employment which would yield a more equitable result for the approved company, the Commonwealth, local jurisdictions, and the employees.

(4) To become eligible for inducements, the approved company shall create and maintain above the base level of employment an increase at the site of the economic development project of at least ***fifteen (15)***[~~twenty-five (25)~~] full-time employees who are residents of the Commonwealth***,***[~~ and who are~~] subject to the Kentucky income tax.

(5) The approved company shall continue to pay to the Commonwealth, on an annualized basis during the term of the agreement, the base level of income tax, adjusted on an annual basis to reflect changes in the consumers price index. Any excess income tax owed may be taken as a credit.

(6) If any approved company expands because of an increase in business or because of the commencement of a new line of business, it shall be eligible, at the discretion of the authority, to negotiate a separate and additional agreement to cover the expanded business under the same conditions as authorized for expansion in this section.

Section 30. KRS 154.28-010 is amended to read as follows:

As used in KRS 154.28-010 to 154.28-100, unless the context clearly indicates otherwise:

(1) ***"Activation date" means a date selected by an approved company in the agreement at any time within the two (2) year period after the date of final approval of the agreement by the authority;***

(2) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more ***chains***[~~claims~~] of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing such voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation: S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended.

(3)[~~(2)~~] "Agreement" means ***the tax incentive***[~~an~~] agreement entered into, pursuant to KRS 154.28-090, ***between***[~~on behalf of~~] the authority and an approved company with respect to an economic development project;

(4)[~~(3)~~] "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

[~~(4) "Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal;~~]

(5) "Approved company" means any eligible company, approved by the authority pursuant to KRS 154.28-080, requiring an economic development project;

(6) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, rehabilitation, and installation of an economic development project;

(b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, rehabilitation, and installation of an economic project which is not paid by the vendor, supplier, deliverymen, contractors, or otherwise else provided;

(c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation, and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, rehabilitation, and installation of an economic development project;

(d) All costs which shall be required to be paid under the terms of any contract for the acquisition, construction, rehabilitation, and installation of an economic development project;

(e) All costs which shall be required for the installation of utilities such as water, sewer, sewer treatment, gas, electricity, communications, railroads, and similar facilities, and including offsite construction of the facilities paid for by the approved company; and

(f) All other costs comparable to those described above;

(7) "Assessment" means the job development assessment fee authorized by this section to KRS 154.28-100;

(8) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;

(9) ***"Average hourly wage" means the most current wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand and eighty (2,080) hour work year for the following sectors:***

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(10) "Commonwealth" means the Commonwealth of Kentucky;

(11)[~~(10)~~] (a) "Economic development project" or "project" means and includes:

1. The acquisition of ownership in any real estate by the approved manufacturing[~~, electric generation,~~] or agribusiness company or its affiliate;

2. The present ownership of real estate by the approved manufacturing[~~, electric generation,~~] or agribusiness company or its affiliate; ***or***

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved company pursuant to a ground lease having a term of sixty (60) years or more[~~; or~~

~~4. The new construction of an electric generation facility in a coal producing county. A coal producing county shall mean a county in the Commonwealth of Kentucky that has produced coal upon which the tax imposed under KRS 143.020 was paid at any time~~].

(b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) of this subsection, the construction, installation, equipping, and rehabilitating of improvements, including fixtures and equipment directly involved in the manufacturing process, and facilities necessary or desirable for improvement of the real estate shall include: surveys, site tests, and inspections; subsurface site work and excavation; removal of structures, roadways, cemeteries, and other site obstructions; filling, grading, provision of drainage, and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; offsite construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities or agribusiness operations on the real estate for the use of the approved company or its affiliates for manufacturing or agribusiness operational purposes. Pursuant to paragraphs (a)3. and (b) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-100. An economic development project shall include the equipping of a facility with equipment but, for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-090, only to the extent of ten thousand dollars ($10,000) per job created by and maintained at the economic development project;

(12)[~~(11)~~] "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, trust, or any other entity engaged in manufacturing[~~, electric generation,~~] or agribusiness operations;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(K) or similar plans;

(14) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(15)[~~(12)~~] "Inducement" means the assessment ***or***[~~and~~] the Kentucky income tax credit as set forth in KRS 154.28-090;

(16)[~~(13)~~] "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property, and any activity functionally related to it, together with storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals; and

(17)[~~(14)~~] "State agency" shall have the meaning assigned to the term in KRS 56.440(8).

Section 31. KRS 154.28-080 is amended to read as follows:

(1) The authority shall promulgate standards for the determination and approval of eligible companies and their economic development projects in accordance with KRS Chapter 13A.

(2) The standards for approval of eligible companies and economic development projects shall include, but not be limited to: the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to the residents of the Commonwealth; and the likelihood of the economic success of the economic development project.

(3) The economic development project shall involve a minimum investment of one hundred thousand dollars ($100,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final resolution authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development projects for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension.

(4) ***(a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:***

1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or

2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken;

(b) If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. In addition to the applicable base hourly wage calculated above, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits;

(5) No economic development project which will result in the replacement of a manufacturing[~~, electric generation,~~] or agribusiness facility existing within the Commonwealth shall be approved by the authority; however, the authority may approve an economic development project that:

(a) Rehabilitates a manufacturing[~~, electric generation,~~] or agribusiness facility:

1. Which has not been in operation for a period of ninety (90) or more consecutive days; or

2. ***For which the current occupant of the facility has published a notice of closure so long as the eligible company intending to acquire the facility is not an affiliate of the current occupant; or***

3. To which the title[~~ to which~~] is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;

(b) Replaces a manufacturing or *agribusiness*[~~electric generation~~] facility existing in the Commonwealth:

1. *To which* the title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

(c) Replaces an existing manufacturing or *agribusiness*[~~electric generation~~] facility located in the same[~~ qualified~~] county that cannot be expanded due to the unavailability of real estate at or adjacent to the manufacturing or *agribusiness*[~~electric generation~~] facility to be replaced. Any economic development project satisfying the requirements of this subsection shall be eligible only for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing or *agribusiness*[~~electric generation~~] facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority that results in a lease abandonment or lease termination by the eligible company without the consent of the lessor.

(6)[~~(5)~~] With respect to each eligible company making an application to the authority for inducements, and with respect to these economic development projects described in the application which do not involve an expansion, the authority shall make inquiries and request materials of the applicant, including, but not limited to, written evidence that except for the receipt of inducements authorized by KRS 154.28-015 to 154.28-090 and KRS 141.400, the eligible company will not locate its economic development project within the Commonwealth. Upon the review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project.

(7)[~~(6)~~] After a diligent review of the relevant materials and completion of its inquiries, the authority, by resolution of its board of directors, may designate an eligible company to be an approved company.

(8)[~~(7)~~] All meetings of the board of directors of the authority shall be held in accordance with KRS 61.805 to 61.850. The board of directors of the authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

Section 32. KRS 154.28-090 is amended to read as follows:

[~~(1)~~]The authority, upon adoption of an authorizing resolution, may enter into, with any approved company, *an*[~~a financing~~] agreement with respect to its economic development project. The terms and provisions of each agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(1) The agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.

(2) The approved company shall expend the authorized approved costs within three (3) years of the date of the final approval by the authority.

(3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.

(4) The agreement shall include the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or ten (10) years from the activation date. To implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, and the approved company's employees of the activation date on which implementation of the inducements authorized in the agreement shall occur. The activation date shall be the time when the maximum dollar value of equipment that constitutes a portion of the economic development project under subsection (11) of Section 30 of this Act shall be determined. If the approved company does not satisfy the minimum investment and minimum employment requirements of subsection (3) of Section 31 of this Act by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the ten (10) year period for the term of the agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of subsection (3) of Section 31 of this Act within two (2) years from the date of final approval of the agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(5) The approved company shall comply with the wage criteria set forth in subsection (4) of Section 31 of this Act and provide documentation in connection with wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.

(6) The approved company may be permitted one of the following inducements during the term of the agreement and shall

select the applicable inducement at the time of final approval by the authority:

(a) A one hundred percent (100%) credit against the Kentucky income tax that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.400, to the Commonwealth by the approved company on the income of the approved company generated by or arising from the economic development project; or

(b) The aggregate assessments pursuant to Section 33 of this Act withheld by the approved company each year.

(7) Either the total income tax credit or assessments may not exceed authorized cumulative approved costs paid by the approved company in the three (3) year period commencing with the date of final approval.

(8) If the approved company elects to use the income tax credit, the income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042 on the Kentucky taxable income generated by or arising from the economic development project.

(9) The agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(10) The agreement shall provide that if an approved company fails to comply with its obligations under the agreement then the authority shall have the right, at its option, to:

(a) Suspend either the income tax credits or assessments available to the approved company;

(b) Pursue any remedy provided under the agreement, including termination thereof; and

(c) Pursue any other remedy at law to which it may be entitled.

(11) All remedies provided in subsection (10) of this section shall be deemed to be cumulative.

[~~(a) The term of an agreement, which shall commence on the date of the agreement, shall not be longer than the earlier of the following:~~

~~1. The maturity of loans or other financing incurred in connection with the economic development project, except that the agreement may be terminated upon the earlier prepayment of loans or other financing incurred in connection with the economic development project; or~~

~~2. Ten (10) years from the activation date of the original agreement.~~

~~(b) All proceeds of any loan or other financing incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic development project are not fully expended within the three (3) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.~~

~~(c) In consideration for the execution and during the term of the agreement, the approved company shall be permitted either of the following during the term of the agreement:~~

~~1. A credit against Kentucky income tax imposed by KRS 141.020 or 141.040 on the income of the approved company generated by or arising out of the economic development project as determined by KRS 141.400; or~~

~~2. The aggregate assessment withheld by the approved company in each year.~~

~~(2) The agreement shall provide that:~~

~~(a) 1. The assessments, if applicable, shall not exceed the annual payments of the total financing agreement by the approved company in any year; however, to the extent that the financing agreement annual payments exceed assessments collected in any year, the excess payment may be recouped from assessment collections in succeeding years.~~

~~2. If in any fiscal year of the approved company during which the financing agreement is in effect the total assessments collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessments collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax withholdings from employees' wages for the remainder of that fiscal year.~~

~~(b) The Kentucky income tax credit, in any fiscal year of the approved company, shall not exceed the total debt service paid during the same fiscal year with respect to the loans or other financing incurred in connection with the economic development project; however, to the extent that annual debt service payments exceed the annual income tax credits in any year, the excess debt service payments may be recouped from excess tax credits in succeeding years.~~

~~(c) The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments~~

~~as prescribed under KRS 141.042.~~

~~(d) The agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.~~

~~(e) An approved company shall require of any lender to an approved company funding the loans or other financing incurred in connection with the economic development project, written evidence of all annual debt service to the lender, which evidence shall be provided in writing to the authority within forty-five (45) days following the close of each fiscal year of the financing agreement.~~

~~(f) If an approved company fails to comply with its respective obligations under the financing agreement, the lender to an approved company fails to comply with the provisions of subsection (2)(e) of this section, or an approved company is declared in default under the loans or other financing incurred in connection with the economic development project, the authority, or any of its assignees, may, at its option:~~

~~1. Suspend the availability of the income tax credits or job development assessment fees, as applicable;~~

~~2. Pursue any remedy provided under the financing agreement, including termination of the agreement; and~~

~~3. Pursue any other remedy at law to which it may appear entitled.~~

~~(3) All remedies provided in subsection (2)(f) of this section shall be deemed cumulative.~~

~~(4) Pursuant to this section, the activation date shall be established by the approved company in the financing agreement which shall be at any time in a two (2) year period after the date of final approval of the financing agreement by the authority. To implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, and the approved company's employees of the activation date on which implementation of the inducements authorized in the financing agreement shall occur. The activation date shall be the time when the maximum dollar value of equipment that constitutes a portion of an economic development project under KRS 154.28-010(10) shall be determined. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) by the activation date, the approved company will not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies these requirements; however, the ten (10) year period for the term of the financing agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) within two (2) years from the date of final approval of the financing agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.~~]

(12)[~~(5)~~] By October 1 of each year, the Revenue Cabinet shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year and assessments taken during the prior calendar year by approved companies with respect to their economic ***development***[~~revitalization~~] projects under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits ***or***[~~ and~~] assessments equal to its total inducements.

Section 33. KRS 154.28-110 is amended to read as follows:

(1) The approved company ***or, with the authority's consent, an affiliate of the approved company*** may require, in lieu of receiving the income tax credits described in KRS 154.28-090, that each employee subject to state tax imposed by KRS 141.020, as a condition of employment, agree to pay ***an***[~~a job development~~] assessment[~~ fee~~], equal to three percent (3%) of the gross wages of each employee whose job was created as a result of the economic development project, for the purpose of ***recovering authorized approved costs as set forth in the agreement***[~~retiring the loans or other financing, as described in KRS 154.28-090, incurred in connection with the economic development project~~].

(2) Each employee so assessed shall be entitled to a credit against Kentucky income tax withheld as provided by KRS 141.310 and 141.350 equal to the[~~ job development~~] assessment[~~ fee~~] withheld from his or her wages during the calendar year.

(3) If an approved company shall elect to impose the assessment as a condition of employment, it shall be authorized to deduct the assessment from each paycheck of each employee.

(4) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the authority at such reasonable times as the authority shall request and shall file with the authority documentation respecting the assessment as the authority may require.

[~~(5) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project pursuant to subsection (1) of this section shall permanently lapse on the date any loans or other financing, as described in KRS 154.28-090, incurred in connection with the economic development project mature or are prepaid in full.~~]

SECTION 34. A NEW SECTION OF SUBCHAPTER 28 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

If the authority adopts a preliminary resolution designating an eligible company as an approved company and preliminarily approving the project of the eligible company as an economic development project prior to July 15, 2002, and the authority adopts a final resolution approving the eligible company as an approved company and the project of the eligible company as

an economic development project, and the authority and the eligible company enter into an agreement no later than June 30, 2003, then the approved company thereafter shall be subject to subchapter 28 of KRS Chapter 154 effective prior to July 15, 2002.

Section 35. KRS 141.310 is amended to read as follows:

(1) Every employer making payment of wages on or after January 1, 1971, shall deduct and withhold upon the wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.

(2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which the wages are paid.

(3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of wages by the employer during the calendar year, or the date of commencement of employment with the employer during the year, or January 1 of the year, whichever is the later.

(4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.

(5) The tables mentioned in subsection (1) of this section take into consideration the deductible federal income tax. If Congress changes substantially the federal income tax, the cabinet shall make the change in these tables necessary to compensate for any increase or decrease in the deductible federal income tax.

(6) The cabinet may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation so permitted produces substantially the same result set forth in the tables authorized by KRS 141.370. Prior approval of the calculation shall be secured from the cabinet at least thirty (30) days before the first payroll period for which it is to be used.

(7) The cabinet may, by regulations, authorize employers:

(a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;

(b) To determine the amount to be deducted and withheld upon each payment of wages to the employee during the quarter as if the appropriate average of the wages estimated constituted the actual wages paid; and

(c) To deduct and withhold upon any payment of wages to the employee during the quarter the amount necessary to adjust the amount actually deducted and withheld upon the wages of the employee during the quarter to the amount that would be required to be deducted and withheld during the quarter if the payroll period of the employee was quarterly.

(8) The cabinet may provide by regulation, under the conditions and to the extent it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employee agree to the additional withholding. The additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.

(9) Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.24-110 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee or the Commonwealth's contribution of KRS 154.24-110(3) applies. If the provisions in KRS 154.24-150(3) or (4) apply, the offset, the offset shall be one hundred percent (100%) of the assessment.

(10) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees ***an***[~~the job development~~] assessment[~~ fee~~] provided in KRS 154.22-070 ***or***[~~,~~] KRS 154.28-110[~~, or KRS 65.6851~~] may offset the fee against the Kentucky income tax required to be withheld from the employee under this section.

(11) Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.26-100 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be two-thirds (2/3) of the amount of the assessment fee withheld from the employee, or if the agreement under KRS 154.26-090(1)(d)2.b. is consummated, the offset shall be four-fifths (4/5) of the assessment fee.

(12) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job development assessment fee provided in KRS 154.23-055 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be equal to the Commonwealth's contribution as determined by KRS 154.23-055(1) to (3).

(13) Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the cabinet. The bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the cabinet, but shall not exceed fifty thousand dollars ($50,000).

(14) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or

enjoin the operation of an employer's business until the bond is posted or the tax required to be withheld is paid or both. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the defendant.

Section 36. The following KRS sections are repealed:

65.684 Powers of city or county for economic development.

65.6851 Option to impose job development assessment fee on certain newly created jobs -- Limitation on amount -- Tax credit for assessed employees -- Restriction on multiple assessments -- Termination -- Requirements to exercise option.

65.6853 Relationship to other job development assessment fees -- Maximum on total tax credits.

65.6855 Application of assessments -- Employer's duties.

65.688 Special fund for outstanding increment bonds.

65.696 Development area financing agreement -- Required provisions.

65.700 Definitions for KRS 65.700 and 65.703.

65.703 Authorization for grant contracts with certain agencies for release of portion of tax increment -- Procedures -- Evaluation.

154.22-090 Exemption of approved company from application of certain statutes.

154.28-120 Application to approved companies of KRS 154.28-010, 154.28-080, 154.28-090, and 154.28-110.

The Committee Substitute to **HB 602** is as follows:

HB 602, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.4588 is amended to read as follows:

(1) There is established within the Kentucky Economic Development Finance Authority a Local Government Economic Development Program to consist of a system of grants to counties to attract new industry.

(2) Grants obtained under this program shall be used for:

(a) Industrial development projects if an industrial firm has agreed with the local government, to the satisfaction of the Kentucky Economic Development Finance Authority, to develop, in conjunction with the industrial development project, manufacturing, processing, assembling, or other facilities approved by the commissioner of the Department for Coal County Development in the Cabinet for Economic Development;

(b) Industrial development projects if the commissioner of the Department for Coal County Development in the Cabinet for Economic Development finds that the project is necessary for the creation of an environment for new industry in order to obtain an agreement from an industrial firm to develop manufacturing, processing, assembling, or other facilities approved by the commissioner of the Department for Coal County Development;[~~ and~~]

(c) Debt service for industrial development projects, as defined in subsection (2)(a) and (b) of this section, or for facilities approved by the commissioner of the Department for Coal County Development in the Cabinet for Economic Development under the provisions of subsection (3) of this section***;***

(d) Job training, as approved by the commissioner of the Department for Coal County Development in the Cabinet for Economic Development; and

(e) Telecommunications infrastructure, as approved by the commissioner of the Department for Coal County Development in the Cabinet for Economic Development, that enhances and improves voice and data services to help create an environment more conducive to business activities.

(3) The commissioner of the Department for Coal County Development in the Cabinet for Economic Development may approve facilities, other than manufacturing, processing, or assembling facilities, for industrial development projects when the commissioner finds that the facility will add value to a product. Value-added facilities shall include data processing, telecommunication, and distribution facilities, but shall not include retail facilities or coal mining, coal processing, or coal transportation facilities. The commissioner may also approve privately-owned facilities for transient lodging and recreation where the commissioner finds that the cost of the recreation component of the facility is equal to, or greater than, the cost of the lodging component of the facility. The criteria for approval of applications for grants provided for in paragraphs (a), (b), and (c) of subsection ***(11)***[~~(10)~~] of this section shall be paramount in the case of lodging and recreational facilities.

(4) Applications for grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund. Applications for grants from funds provided for in KRS 42.4592(1)(c) shall be made by the legislative bodies of two (2) or more counties with accounts in the local government economic development fund. No grant shall be awarded without application for a grant.

(5) A grant may be awarded for an industrial development project located in a county that does not have an account in the local government economic development fund, if the commissioner of the Department for Coal County Development in the Cabinet for Economic Development finds that the industrial development project may be reasonably expected to create jobs for residents of the local unit or units of government applying for the grant. Application for the grant shall be made by

the legislative bodies of one (1) or more counties with accounts in the local government economic development fund.

(6) An industrial development project may include legal, accounting, engineering, and marketing expenses for a regional industrial park, in addition to the activities set forth in subsection (11)(a) of this section.

(7) Grants awarded from funds provided for in KRS 42.4592(1)(a) and (b) shall not exceed the total balance of the accounts of the applicant counties at the time of the award of the grant.

(8) Grants awarded under the provisions of subsection (2)(c) of this section may be for a period not to exceed the current biennium of the Commonwealth, and shall be limited to an amount not to exceed the amount estimated to be allocated to the applicant county or counties for the current biennium under the provisions of KRS 42.4592(1)(a) and (b).

(9) Approval of grant applications ***under subsections (2)(a),(2)(b), or (2)(c) of this section*** shall be by the commissioner of the Department for Coal County Development in the Cabinet for Economic Development. ***Notwithstanding subsections (4) and (5) of this section, the commissioner of the Department for Coal County Development in the Cabinet for Economic Development shall approve projects under subsections (2)(d) and (2)(e) of this section in consultation with affected counties, but such projects shall not require an application by the legislative bodies of affected counties.*** Award of grants shall be by the Kentucky Economic Development Finance Authority.

(10) ***The commissioner of the Department for Coal County Development in the Cabinet for Economic Development is authorized to approve the funding of projects prioritized in the following manner:***

(a) Industrial development projects under subsections (2)(a), (2)(b), and (2)(c) of this section;

(b) Job training under subsection (2)(d) of this section; and

(c) Any other projects allowed under this section or otherwise funded out of the Local Government Economic Development Fund created in KRS 42.4582.

(11) Criteria for approval of applications and the award of grants to be considered, if applicable, shall include:

(a) The number of jobs to be created or preserved, directly or indirectly, by the industrial development project;

(b) Payrolls, and the taxes generated, both at the state and local levels, by the industrial development project and taxes generated by the employment created or preserved by the industrial development project;

(c) The size, nature, and cost of the industrial development project, including the prospect of the industrial development project providing long-term jobs in enterprises consistent with the changing economies of the affected local units of government;

(d) The needs, and degree of needs, of the local units of government which will be affected by the industrial development project;

(e) The needs of any industrial firm benefiting from the industrial development project;

(f) The amount and kind of assistance, if any, available to an industrial firm from other government agencies through tax exemption or abatement, financing assistance through industrial development bonds, and otherwise, with respect to the industrial development project;

(g) The amount of capital made available to the facility by lenders and by the industrial firm; and

(h) The economic feasibility of the facility.

(12)[~~(11)~~] For purposes of this section:

(a) "Industrial development project" includes the acquisition of any real estate and the construction, acquisition, and installation thereon and with respect thereto of improvements and facilities necessary and useful for the improvement of the real estate for conveyance to or lease to industrial firms to be used for manufacturing, processing, or assembling purposes, including surveys; site tests and inspections; subsurface site work; excavation, removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage; storm water retention; installation of utilities, such as water, sewer, sewage treatment, gas, electricity, communication, and other similar facilities; off-site construction of utility extensions to the boundaries of the real estate; construction and installation on the real estate of the industrial firm of buildings, including buildings to be used for worker training and education; rail facilities; roads; sidewalks; curbs; other improvements to the real estate necessary to its manufacturing, processing, assembling, or other approved use by industrial entities; workforce training; and job development incentive grants;

(b) "Industrial firm" means any corporation, limited liability company, limited liability partnership, partnership, person, or other legal entity, whether domestic or foreign, which will itself or through its subsidiaries and affiliates construct and develop a manufacturing, processing, assembling, or other approved facility on the site of an industrial development project financed pursuant to this section;

(c) "Job development incentive grant" means an award to a county of funds from its account administered by the Kentucky Economic Development Finance Authority pursuant to KRS 42.4592(1)(a) and (b) for the use by the county to encourage job development for those industrial development projects located in that county which create at least twenty-five (25) new full-time jobs held by Kentucky residents who receive a minimum wage of at least one hundred thirty percent (130%) of the federal minimum wage. Each job development incentive grant is limited to five thousand dollars ($5,000) for each job created which fulfills the requirements of this subsection. The industrial firm receiving the job development incentive grant shall pay its employees at the project site an average wage equal to or greater than one hundred fifty percent (150%) of the federal minimum wage and shall invest at least ten thousand dollars ($10,000) per new job created. After a fiscal court has received authorization for the job development grant by the Kentucky Economic Development Finance Authority, the county, the industrial firm, and the Kentucky Economic Development Finance Authority shall enter into an agreement committing the grant funds to be disbursed at such time as the industrial firm certifies the authenticity of the following information to be delivered to the county:

1. The industrial firm has made at least the minimum investment required;
2. At least twenty-five (25) new full-time Kentucky jobs have been created at the project site by the industrial firm;
3. No employee at the project site is paid a salary by the industrial firm which is less than one hundred thirty percent (130%) of the federal minimum wage;
4. The employees at the project site are paid an average wage by the industrial firm at least equal to one hundred fifty percent (150%) of the federal minimum wage;
5. Each employee hired for the project by the industrial firm shall have worked on a full-time basis at the minimum wages described in this section at least twelve (12) full consecutive months at the site prior to any grant funds disbursement; and
6. No job created by the industrial firm after twenty-four (24) months from the date of the first eligible hire at the project site shall be considered for the grant.

If the county is satisfied the information provided is accurate and qualifies the industrial firm for the job development incentive grant as described in the agreement, it shall forward the certified information to the Department for Coal County Development, Cabinet for Economic Development which shall make the job development grant disbursement upon sufficient evidence that all terms of the agreement have been met; and

(d) "Regional industrial park" means an industrial development project authorized for a grant award by the Kentucky Economic Development Finance Authority for a minimum of three (3) counties eligible for grant funds provided for in KRS 42.4592(1)(c), which coalition may include a county as approved under subsection (5) of this section.

(13)[~~(12)~~] Findings by the commissioner of the Department for Coal County Development in the Cabinet for Economic Development, provided for in subsections (2)(b), (3), and (5) of this section, shall be made in writing to the affected counties, the Governor, and the Legislative Research Commission.

(14)[~~(13)~~] By October 1 of each odd-numbered year, the commissioner of the Department for Coal County Development, Cabinet for Economic Development shall provide, in writing, to the Governor and the Legislative Research Commission a listing of all applications for grants received pursuant to this section subsequent to the last report, indicating which applications were approved or disapproved, with the reason for disapproval when the decision was to disapprove, and a listing of all grants awarded, with the amount of the award, the recipient county, and the related industrial development project.

Section 2. KRS 42.4585 is amended to read as follows:

(1) A portion of each quarterly transfer of moneys provided for in KRS 42.4582 shall be transferred from the local government economic development fund into the local government economic assistance fund according to the following schedule:

(a) Effective July 1, 1992, an amount equal to eighty percent (80%) of each quarterly transfer;

(b) Effective July 1, 1993, an amount equal to sixty-six and seven-tenths percent (66.7%) of each quarterly transfer;

(c) Effective July 1, 1994, an amount equal to forty-eight percent (48%) of each quarterly transfer; and

(d) Effective July 1, 1995, and thereafter, an amount equal to twenty-four percent (24%) of each quarterly transfer.

The transfers shall be made quarterly.

(2) The amount transferred annually from the local government economic development fund into the local government economic assistance fund under the provisions of subsection (1) of this section shall not be less than an amount equal to *fifteen*[~~thirteen~~] percent *(15%)*[~~(13%)~~] of the severance and processing taxes on coal collected annually.

(3) The quarterly calculation and transfer of funds pursuant to subsections (1) and (2) of this section shall be made only after the quarterly installment of the annual nineteen million dollars ($19,000,000) allocation of coal severance tax revenues has been credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission as required by KRS 342.122.

Section 3. KRS 65.680 is amended to read as follows:

As used in KRS 65.680 to 65.699:

(1) ***"Activation date" means the date established in the grant contract at any time in a two (2) year period after the date of approval of the grant contract by the economic development authority or the tourism development authority, as***

appropriate. The economic development authority or tourism development authority, as appropriate, may extend this two (2) year period to no more than four (4) years upon written application of the agency requesting the extension. To implement the activation date, the agency who is a party to the grant contract shall notify the economic development authority or the tourism development authority, as appropriate, the Revenue Cabinet, and other taxing districts that are parties to the grant contract when the implementation of the increment authorized in the grant contract shall occur;

(2) "Agency" means an urban renewal and community development agency established under KRS Chapter 99; a development authority established under KRS Chapter 99; a nonprofit corporation established under KRS Chapter 58; an air board established under KRS 183.132 to 183.160; a local industrial development authority established under KRS 154.50-301 to 154.50-346; or a designated department, division, or office of a city or county;

(3) "Assessment" means the job development assessment fee authorized by KRS 65.6851, which the governing body may elect to impose throughout the development area;

(4) "Brownfield site" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant;

(5)[~~(2)~~] "City" means any city or urban-county;

(6)[~~(3)~~] "Commencement date" means the date a development area is established, as provided in the ordinance creating the development area;

(7) "Commonwealth" means the Commonwealth of Kentucky;

(8)[~~(4)~~] "County" means any county or charter county;

(9)[~~(5)~~] ***"CPI" means the non-seasonally adjusted Consumer Price Index for all urban consumers, all items (base year computed for 1982 to 1984 equals one hundred (100)), published by the United States Department of Labor, Bureau of Labor Statistics;***

(10) "Debt charges" means the principal, including any mandatory sinking fund deposits, interest, and any redemption premium, payable on increment bonds as the payments come due and are payable and any charges related to the payment of the foregoing;

(11)[~~(6)~~] "Development area" means a contiguous geographic area, which may be within one (1) or more cities or counties, defined and created for economic development purposes by an ordinance of a city or county in which one (1) or more[~~economic development~~] projects are proposed to be located***, except that for any development area for which increments are to include revenues from the Commonwealth, the contiguous geographic area shall satisfy the requirements of Section 14 or 15 of this Act***;

(12)[~~(7)~~] "Economic development ***authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010***[~~project" means any property, asset, or improvement certified by the governing body, which certification is conclusive as:~~

~~(a) Being for a public purpose;~~

~~(b) Being for economic development purposes;~~

~~(c) Being in or related to a development area; and~~

~~(d) Having an estimated life or period of usefulness of one (1) year or more, including, but not limited to, real estate, buildings, personal property, equipment, furnishings, and site improvements and reconstruction, rehabilitation, renovation, installation, improvement, enlargement, and extension of property, assets, or improvements so certified as having an estimated life or period of usefulness of one (1) year or more;~~

~~(8) "Economic development purposes" means the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, or any combination thereof, which is determined by the governing body establishing the development area as contributing to economic development;~~

~~(9) "Financing agreement" means an agreement made between cities, counties, or a combination thereof providing for the release of increments under the authority of KRS 65.680 to 65.699~~];

(13) "Enterprise Zone" means an area designated by the Enterprise Zone Authority of Kentucky to be eligible for the benefits of KRS 154.45-010 to KRS 154.45-110;

(14)[~~(10)~~] "Governing body" means the body possessing legislative authority in a city or county;

(15) "Grant contract" means:

(a) That agreement with respect to a development area established under Section 9 of this Act, by and among an agency and one (1) or more taxing districts other than the Commonwealth, by which a taxing district permits the payment to an agency of an amount equal to a portion of increments other than revenues from the Commonwealth received by it in return for the benefits accruing to the taxing district by reason of one (1) or more projects in a development area; or

(b) That agreement, including with respect to a development area satisfying the requirements of Section 14 or 15 of this Act, a master agreement and addenda to the master agreement, by and among an agency, one (1) or more taxing districts, and the economic development authority or the tourism development authority, as appropriate,

by which a taxing district permits the payment to an agency of an amount equal to a portion of increments received by it in return for the benefits accruing to the taxing district by reason of one (1) or more projects in a development area;

(16)[~~(11)~~] "Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more[~~ economic development~~] projects in a development area, the payment of which is secured solely by a pledge of increments or by a pledge of increments and other sources of payment that are otherwise permitted by law to be pledged or used as a source of payment of the bonds or notes;

(17)[~~(12)~~] "Increments" means ***the***[~~that~~] amount of ***revenues***[~~revenue due to be~~] received by ***any taxing district***[~~a city or county~~], determined by subtracting the amount of old revenues from the amount of new revenues ***in the calendar year***[~~, including assessments, if any,~~] with respect to a development area ***and for which the taxing district or districts and the agency have agreed upon under the terms of a grant contract;***

(18) "Infrastructure development" means the acquisition of real estate within a development area meeting the requirements of Section 14 of this Act and the construction or improvement, within a development area meeting the requirements of Section 14 of this Act of roads and facilities necessary or desirable for improvements of the real estate, including surveys; site tests and inspections; environmental remediation; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other underground and surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, and electricity, communications, and similar facilities; and utility extensions to the boundaries of the development area meeting the requirements of Section 14 of this Act;

(19)[~~(13)~~] "Issuer" means a city or county issuing increment bonds;

(20)[~~(14)~~] "New revenues" means the ***amount of*** revenues received with respect to a development area in any ***calendar*** year after the ***activation***[~~commencement~~] date for ***a***[~~the~~] development area***:***

(a) Established under Section 9 of this Act, the ad valorem taxes other than the school and fire district portions of the ad valorem taxes received from real property generated from the development area and properties sold within the development area, and occupational license fees not otherwise used as a credit against an assessment, and all or a portion of assessments as determined by the governing body; or

(b) Satisfying the requirements of Section 14 of this Act, the ad valorem taxes other than the school and fire district portions of the ad valorem taxes received from real property generated from the development area and properties sold within the development area; or

(c) Satisfying the requirements of Section 15 of this Act, the ad valorem taxes, other than the school and fire district portions of the ad valorem taxes, received from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees or other such state taxes as may be determined by the Revenue Cabinet to be applicable to the project and specified in the grant contract, generated from the primary project entity within the development area minus relocation revenue[~~and may include all or a portion of the assessments as determined by the governing body~~];

(21)[~~(15)~~] "Old revenues" means the amount of revenues received with respect to a development area***:***

(a) Established under Section 9 of this Act, in the last ***calendar*** year prior to the commencement date for the development area***, revenues which constitute ad valorem taxes other than the school and fire district portions of ad valorem taxes received from real property in the development area and occupational license fees generated from the development area; or***

(b) Satisfying the requirements of Section 14 of this Act, in the last calendar year prior to the commencement date for the development area, revenues which constitute ad valorem taxes other than the school and fire district portions of ad valorem taxes received from real property in the development area; or

(c) Satisfying the requirements of Section 15 of this Act, in the period of no longer than three (3) calendar years prior to the commencement date, the average as determined by the Revenue Cabinet to be a fair representation of revenues derived from ad valorem taxes, other than the school and fire district portions of ad valorem taxes, from real property in the development area, and Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees and other such state taxes as may be determined by the Revenue Cabinet as specified in the grant contract generated from the development area. With respect to this paragraph, if the development area was within an active enterprise zone for the period used by the Revenue Cabinet for measuring old revenues, then the calculation of old revenues shall include the amounts of ad valorem taxes, other than the school and fire district portions of ad valorem taxes, that would have been generated from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees and other such state taxes as may be determined by the Revenue Cabinet as specified in the grant contract, were the development area not within an active enterprise zone. With respect to this paragraph, if the primary project entity generated old revenue prior to the commencement date in the development area or revenues were derived from the development area prior to the commencement date of the development area, then revenues shall increase each calendar year by the percentage increase of the consumer price index, if any;

(22)[~~(16)~~] "Outstanding" means increment bonds that have been issued, delivered, and paid for, except any of the following:

(a) Increment bonds canceled upon surrender, exchange, or transfer, or upon payment or redemption;

(b) Increment bonds in replacement of which or in exchange for which other bonds have been issued; or

(c) Increment bonds for the payment, or redemption or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the ordinance or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, or otherwise, have been deposited, and credited in a sinking fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of increment bonds to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected bond holders has been filed with the issuer or its agent;

(23) "Primary project entity" means the entity responsible for control, ownership and operation of the project within a development area satisfying the requirements of Section 15 of this Act which generates the greatest amount of new revenues or, in the case of a proposed development area satisfying the requirements of Section 15 of this Act, is expected to generate the greatest amount of new revenues;

(24) "Project" means, for purposes of a development area:

(a) Established under Section 9 of this Act, any property, asset, or improvement certified by the governing body, which certification is conclusive as:

1. Being for a public purpose;

2. Being for the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, or any combination thereof, which is determined by the governing body establishing the development areas as contributing to economic development;

3. Being in or related to a development area; and

4. Having an estimated life or period of usefulness of one (1) year or more, including, but not limited to, real estate, buildings, personal property, equipment, furnishings, and site improvements and reconstruction, rehabilitation, renovation, installation, improvement, enlargement, and extension of property, assets, or improvements so certified as having an estimated life or period of usefulness of one (1) year or more;

(b) Satisfying the requirements of Section 14 of this Act, an economic development project defined under Section 19 of this Act, Section 32 of this Act, or Section 37 of this Act; or

(c) Satisfying the requirements of Section 15 of this Act, the development of facilities for:

1. The transportation of goods or persons by air, ground, water, or rail;

2. The transmission or utilization of information through fiber-optic cable or other advanced means;

3. Commercial, industrial, recreational, tourism attraction educational uses; or

4. Any combination thereof;

(25) "Relocation revenue" means the ad valorem taxes, other than the school and fire district portions of ad valorem taxes, from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees and other such state taxes as specified in the grant contract, received by a taxing district attributable to that portion of the existing operations of the primary project entity located in the Commonwealth and relocating to the development area satisfying the requirements of Section 15 of this Act;

(26) "Special fund" means a special fund created in accordance with KRS 65.688 into which increments are to be deposited;

(27) "Taxing district" means a city, county, or other taxing district that encompasses all or part of a development area, or the Commonwealth, but does not mean a school district or fire district;

[~~(17) "Revenue collector" means any official charged with collecting revenues in a development area;~~

~~(18) "Revenues" means ad valorem revenues, occupational license fees, and assessments received by the city or county creating a development area and by each city and county that is a party to a financing agreement related to that development area;~~

~~(19) "Special fund" means a special fund created in accordance with KRS 65.688 into which increments are to be deposited;~~]

(28)[~~(20)~~] "Termination date" means the date on which *a*[~~the~~] development area shall cease to exist, which *for purposes of a development area:*

(a) Established under Section 9 of this Act, shall be for a period of no longer than twenty (20) years from the commencement date and set forth in the grant contract. Increment bonds shall not mature on a date beyond the termination date established by this paragraph; or

(b) Satisfying the requirements of Section 14 of this Act, shall be for a period of no longer than twenty (20) years from the commencement date and set forth in the grant contract constituting a master agreement, except that for an addendum added to the master agreement for each project in the development area, the termination date

may be extended to no longer than twenty (20) years from the date of each addendum; or

(c) Satisfying the requirements of Section 15 of this Act, shall be for a period of no longer than twenty (20) years from the activation date of the grant contract. Increment bonds shall not mature on a date beyond the termination date established by this subsection[~~date shall be no earlier than the date any increment bonds secured by increments from a development area are no longer outstanding~~]; and

(29)[~~(21)~~] ***"Tourism development authority" means the Tourism Development Finance Authority as created in KRS 148.850***[~~"Year" means January 1 to December 31 of the same calendar year~~].

Section 4. KRS 65.682 is amended to read as follows:

The General Assembly finds and declares that economic development created by the development of[~~ economic development~~] projects to support economic revitalization and improvement in a development area which results in the increase in the value of property located in a development area or results in increased employment opportunities within or around a development area serves a public purpose***; and that the authority prescribed by KRS 65.680 to 65.699 and the purposes to be accomplished thereunder, are proper governmental and public purposes for which public moneys may be expended; and that the creation or expansion of development areas is of paramount importance mandating that the provisions of KRS 65.680 to 65.699 be liberally construed and applied in order to advance public purposes***.

Section 5. KRS 65.684 is amended to read as follows:

For any development area for which increments do not include revenues from the Commonwealth, in addition to any other powers conferred by law, any city or county may exercise any powers necessary or convenient to carry out the purposes of KRS 65.680 to 65.699, including the power to:

(1) Create development areas and to define their boundaries;

(2) Undertake[~~ economic development~~] projects;

(3) Issue increment bonds and pledge increments to the payment of debt charges on those increment bonds;

(4) Create a special fund established for the deposit of increments and other funds that may be used or pledged for the payment of increment bonds and to pay the costs of[~~ economic development~~] projects;

(5) Utilize increments to pay the costs of economic development projects and for the payment of amounts due on increment bonds; and

(6) Impose ***assessments***[~~job development assessment fees~~].

Section 6. KRS 65.6851 is amended to read as follows:

For any development area for which increments do not include revenues from the Commonwealth:

(1) Any governing body establishing a development area may impose ***an***[~~a job development~~] assessment[~~ fee~~] on each person employed in the development area***, as a condition of employment,*** whose job was newly created as a result of ***a***[~~an economic development~~] project begun on or after January 1, 2002, and as determined by the policies and procedures established by the governing body, subject to the conditions in subsection (6) of this section, and who is subject to the state tax imposed by KRS 141.020. A job shall not be deemed to be newly created under this section if it occurs due to the relocation of jobs from another location within the Commonwealth.

(2) ***Subject to Section 7 of this Act,*** the total assessment levied by all the governing bodies within the development area shall not exceed an amount equal to ***two***[~~three~~] percent ***(2%)***[~~(3%)~~] of the gross wages of the employee.

(3) Each person so assessed shall be entitled to credits against ***local occupational license fees, if a local occupational license fee is then in existence and not otherwise totally used as a credit against assessments imposed under Subchapter 23, 24, or 26 of KRS Chapter 154,***[~~Kentucky income tax~~] equal to the assessment[~~ fee~~] withheld from wages during the ***calendar*** year[~~ as provided by KRS 141.310 and 141.350~~] so long as the amount does not exceed the amount of the assessment itself.[~~ The approved company shall determine the applicable tax credit for each of its employees using the methods set forth in KRS 141.347.~~]

(4) Subsequent to the establishment of a development area by one (1) governing body, no other governing body may levy an assessment in any portion of the development area that would cause the total assessment in any portion of the development area to exceed ***two***[~~three~~] percent ***(2%)***[~~(3%)~~] of the gross wages of the employee***, subject to Section 7 of this Act***. If more than one (1) governing body jointly establishes a development area, the governing bodies that establish the development area shall agree upon the amount of the assessment and the manner by which the assessment is to be prorated among the governing bodies establishing the development area.

(5) Any assessment of employees in connection with their employment at ***a***[~~an economic development~~] project levied under this section shall permanently lapse on the date:

  (a) Any bonds issued in connection with acquiring or developing the infrastructure of a development area[~~ or a qualified development area~~], in accordance with KRS 65.680 to 65.699, are retired; or

  (b) Any loans or other financing incurred in connection with the establishment of a development area[~~ or a qualified development area~~] mature or are prepaid in full.

(6) For the purposes of this section:

(a) The development area shall be a previously undeveloped tract of land;

(b) No more than five hundred (500) acres may be approved in any twelve (12) month period in any county; ***and***

(c) Acceptable developments shall be limited to manufacturing ***and service or technology projects***[~~, and technical developments as approved by the Commissioner of the New Economy;~~

~~(d) Each proposed development shall be evaluated by the Kentucky Economic Development Finance Authority in consultation with the Governor's Office of Economic Analysis for fiscal viability; and~~

~~(e) The amount of the total assessment for each company locating within the development area shall be subject to approval by the Office of the State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet. Approval shall not be granted if it is determined that there is no net positive economic impact to the Commonwealth~~].

Section 7. KRS 65.6853 is amended to read as follows:

For any development area for which increments do not include revenues from the Commonwealth:

(1) If a company, against whose employees an assessment is levied under ***Section 6 of this Act***[~~KRS 65.6851~~], enters into an agreement with the ***economic development authority***[~~Kentucky Economic Development Finance Authority~~] under ***Subchapter 23, 24, or 26 of*** KRS ***Chapter 154***[~~154.22-010 to 154.22-080, KRS 154.23-005 to 154.23-079, KRS 154.24-010 to 154.24-150, KRS 154.26-010 to 154.26-100, and KRS 154.28-010 to 154.28-100~~] allowing the company to ***impose***[~~assess~~] a job development assessment fee as part of that agreement, the total assessment levied against the employee ***for state inducements and the development area*** shall not exceed ***six percent (6%), subject to subsection (2) of this section***[~~the maximum assessment allowed under KRS 154.22-010 to 154.22-080, KRS 154.23-005 to 154.23-079, KRS 154.24-010 to 154.24-150, KRS 154.26-010 to 154.26-100, and KRS 154.28-010 to 154.28-100~~].

(2) ***If an eligible company under Subchapter 23, 24, or 26 of KRS Chapter 154 locates or expands within a development area, the assessment imposed under subsection (1) of Section 6 of this Act shall not exceed the lesser of two percent (2%) or the difference between two percent (2%) and the local occupational license fee used as a credit against the assessments granted under Subchapter 23, 24, or 26 of KRS Chapter 154***[~~When added with the job development assessment fees under KRS 65.6851, the total credits that an employee may claim against his or her Kentucky income tax imposed under KRS 141.020 shall not exceed the maximum total job development assessment fees under KRS 154.22-010 to 154.22-080, KRS 154.23-005 to 154.23-079, KRS 154.24-010 to 154.24-150, KRS 154.26-010 to 154.26-100, and KRS 154.28-010 to 154.28-100~~].

Section 8. KRS 65.6855 is amended to read as follows:

For any development area for which increments do not include revenues from the Commonwealth:

(1) The employees of any[~~ approved~~] company choosing to locate in a development area shall be subject to any assessments levied against them, and the[~~ approved~~] company shall not have the authority to reject an assessment.

(2) Each employer in the development area shall:

(a) Collect the assessment from its employees by deducting the assessment from each paycheck of its employees;

(b) Promptly remit the assessment to the ***official charged with collecting revenues in the development area***[~~revenue collector~~];

(c) Make its payroll books and records available to the ***official charged with collecting revenues in the development area***[~~revenue collector~~] at a reasonable time as specified by the governing body; and

(d) File with the ***official charged with collecting revenues in the development area***[~~revenue collector~~] any documentation with regard to the assessment as required by the governing body.

Section 9. KRS 65.686 is amended to read as follows:

(1) Any city or county may establish or modify a development area by:

(a) Holding a public hearing by its governing body or its designee at which interested parties are afforded a reasonable opportunity to express their views on the proposed creation or modification of a development area and its boundaries. Notice of the hearing shall:

1. Include a declaration that the purpose of the hearing is to afford interested parties an opportunity to express their views regarding the ***proposed*** development area;

2. Include a general description of the boundaries of the proposed development area;

3. State the time and place of the hearing; and

4. Be published in a local newspaper of general circulation at least seven (7) days but no more than twenty-one (21) days prior to the scheduled hearing date; and

(b) Adopting an ordinance which shall:

1. Describe the boundaries of the ***proposed*** development area with sufficiency to allow ordinary and reasonable certainty of the territory included. However, no ***proposed*** development area shall include property located in any other development area;

2. Create the development area on a date certain, which shall be referred to as the commencement date[~~, and, if deemed appropriate by the governing body, establish a termination date~~];
3. Assign a name to the ***proposed*** development area for identification purposes;
4. Contain findings that the designation of the proposed development area will result in the increase in the value of property located in the development area or result in increased employment within or around the development area, or both;
5. Approve the ***grant contract***[~~financing agreement~~], if any, relating to ***a***[~~the economic~~] development ***area***[~~project~~];
6. Establish***, if applicable,*** a special fund for that development area;
7. Contain any other findings, limitations, rules, or procedures regarding the ***proposed*** development area and its establishment or maintenance as deemed necessary by the governing body; and
8. ***Permit, if applicable, the levying of an assessment***[~~Levy the job development assessment fee, if any~~]; and

(c) Providing the ***official charged with collecting revenues in the development area***[~~revenue collector~~], if the ***official***[~~collector~~] is not an employee of the city or county designating the development area, with a description of the development area and any other information available which is needed to determine increments or new revenues.

(2) ***(a) For any development area for which increments do not include revenues from the Commonwealth,*** increments generated in a development area shall be submitted by the ***official charged with collecting revenues in the development area,***[~~revenue collector~~] to the city or county establishing the special fund for that development area, deposited to that special fund and used to pay the costs of[~~ economic development~~] projects or to pay debt charges on increment bonds, except that increments payable to any city or county other than the city or county establishing the[~~ economic~~] development area shall be submitted to that city or county as if no development area existed unless that city or county is a party to a ***grant contract***[~~financing agreement~~] that provides that some or all of the increments are to be submitted to a special fund.

(b) For any development area for which increments include revenues from the Commonwealth, increments paid by the city, county, or Commonwealth to the agency for which the development area is created shall be used to pay the costs of projects or to pay debt charges on increment bonds.

(3) The existence of a development area shall terminate on the termination date[~~ and if no termination date is established by the ordinance creating the development area, on the earlier of the termination date subsequently established by ordinance or the first December 31 that is at least thirty (30) years from the commencement date; however, any development area shall not be terminated as long as there are any increment bonds outstanding for which the revenues of the development area are pledged to the repayment thereof~~].

Section 10. KRS 65.688 is amended to read as follows:

For any development area for which increments do not include revenues from the Commonwealth, while increment bonds are outstanding, the issuer shall maintain a special fund which shall be pledged for the retirement of those increment bonds. ***Officials charged with collecting revenues in the development area***[~~Revenue collectors~~] shall, for each year a ***grant contract***[~~financing agreement~~] is in effect or any increment bonds are outstanding with respect to a development area, determine the amount of increments from the development area which they are charged with collecting and submit those increments for deposit in the special fund established by the governing body for that development area. Funds deposited in a special fund for the payment of increment bonds shall be disbursed at the times and in the amounts required to pay debt charges on those increment bonds. Accrued interest from the sale of increment bonds shall be deposited in the special fund pledged to the payment of those bonds. Amounts in a special fund which exceed the amount required to pay debt charges on related increment bonds in any fiscal year may accumulate in the special fund for the payment of future debt charges or to pay the costs of additional[~~ economic development~~] projects in the development area, or may be transferred by the governing body from the special fund under the terms of a ***grant contract***[~~financing agreement~~] or used for any lawful purpose.

Section 11. KRS 65.692 is amended to read as follows:

(1) Increment bonds may be issued to pay the costs of[~~ economic development~~] projects ***in the development area***. The provisions of KRS 66.021, 66.031, 66.041, 66.045, 66.071, 66.091, 66.121, 66.131, 66.141, 66.151, 66.171, 66.181, and 66.191 shall apply to the issuance of increment bonds ***insofar as they do not conflict with KRS 65.680 to 65.699; if they do conflict, KRS 65.680 to 65.699 shall apply***.

(2) Debt payments on increment bonds may be paid from increments, from any other funds of the issuer, or from funds identified in a ***grant contract***[~~financing agreement~~], or any combination thereof. If increment bonds are payable solely from increments, the issuer shall, prior to the issuance of the increment bonds, make a determination that the increments are adequate to make the debt payments so long as the increment bonds are outstanding.

(3) Increment bonds may also be issued to fund or refund all or any portion of outstanding increment bonds. Any increment bonds issued under this subsection shall mature as determined by the governing body consistent with ***the definition of termination date as contained in Section 3 of this Act and*** KRS 66.091[~~, but their maturity shall not be later than the date~~

~~that would have been permitted by KRS 66.091, as of the date the original bonds were issued~~].

Section 12. KRS 65.694 is amended to read as follows:

Any city or county may pledge increments to the payment of increment bonds by an ordinance adopted by the governing body or by a ***grant contract***[~~financing agreement~~] adopted by ordinance. Any pledge of increments adopted under this section shall, as to the increments, but not as to any other revenues, be superior to any other pledge of revenues for any other purpose and shall, from the effective date of the ordinance to the termination date, supersede any statute or ordinance regarding the application or use of increments. No ordinance in conflict with an ordinance pledging increments shall be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances pledging increments on a subordinate basis to any existing pledges may be adopted.

Section 13. KRS 65.696 is amended to read as follows:

For any development area for which increments do not include revenues from the Commonwealth:

(1) Upon establishment of a development area, any city or county may release, by a ***grant contract***[~~financing agreement~~] with any other city or county, increments expected to be collected by that city or county in the related development area for a period that does not extend beyond the termination date.

(2) The ***grant contract***[~~financing agreement~~] shall include the following provisions:

(a) The identity of each city and county participating in the financing agreement;

(b) A detailed description of each[~~ economic development~~] project that is the subject of the ***grant contract***[~~financing agreement~~], including an estimate of its costs of construction or acquisition and development;

(c) A detailed description of the development area;

(d) A detailed summary estimating old revenues collected and projected new revenues in the development area for each city and county that is a party to the ***grant contract***[~~financing agreement~~], on an annual basis, for the term of the proposed ***grant contract***[~~financing agreement~~];

(e) The maximum amount of increments to be released by the parties to the ***grant contract***[~~financing agreement~~], if any, and the maximum number of years the release will be effective, including an agreement to deposit the increments in a special fund created for that purpose, which, if any increment bonds are to be issued, shall be held by the issuer of the increment bonds;

(f) The times and procedures for depositing increments and other funds, if any, in the special fund to be established for the development area and any provisions relating to the collection of the increments;

(g) Any covenants regarding additional funds or to pay the costs of the[~~ economic development~~] projects;

(h) Any covenants regarding completion of the[~~ economic development~~] project;

(i) Terms of default and remedies, except that no remedy shall permit the withholding by any party to the ***grant contract***[~~financing agreement~~] of any increments to be deposited in the special fund identified in the ***grant contract***[~~financing agreement~~] so long as any increment bonds are outstanding that are secured by a pledge of those increments;[~~ and~~]

(j) ***The commencement date;***

(k) The termination date; and

(l) Any other provisions not inconsistent with KRS 65.680 to 65.699 that are deemed necessary or appropriate by the parties to the ***grant contract***[~~financing agreement~~].

SECTION 14. A NEW SECTION OF KRS 65.680 TO 65.699 IS CREATED TO READ AS FOLLOWS:

(1) A city, county, or agency shall submit an application to the economic development authority for approval of a development area for infrastructure development which includes revenues from the Commonwealth, the standards for which the economic development authority shall establish through its operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) A development area for purposes of infrastructure development shall:

(a) 1. Consist of at least one hundred (100) acres of undeveloped land; or

2. Consist of at least one (1) acre constituting a brownfield site; and

(b) Be under the control, owned, and operated by an agency at the commencement date.

(3) With respect to each city, county, or agency that applies to the economic development authority for approval of a development area for infrastructure development, the economic development authority shall request materials and make all inquiries concerning the application the economic development authority deems necessary. Upon review of the application and requested materials, and completion of inquiries, the economic development authority may grant approval for:

(a) The development area for infrastructure development;

(b) Each project for which an application has been submitted to be located in the development area for

infrastructure development, provided that each project approved for location in the development area for infrastructure development meets the criteria necessary in order to qualify for inducements under subchapters 22, 24, and 28 of KRS Chapter 154;

(c) The percentage of the Commonwealth's portion of the increment that the Commonwealth agrees to distribute to the agency each year during the term of the grant contract;

(d) The maximum amount of costs for infrastructure development for which the increment may be distributed to the agency; and

(e) The master agreement constituting a grant contract and any addendum for each project approved for location in the development area for infrastructure development.

(4) Prior to any approval by the economic development authority, the economic development authority shall have received an ordinance adopted by the city or county creating the development area and establishing the percentage of increment that the city and county are distributing each year to the agency for use in the infrastructure development of the development area for which economic development authority approval is sought. The economic development authority shall not approve a percentage of the Commonwealth's portion of the increment to be distributed to the agency each calendar year with respect to a development area for infrastructure development greater than the percentage approved by the city or county creating the development area.

(5) The maximum amount of increment available for development areas for infrastructure development is one hundred percent (100%).

(6) The terms and conditions of each grant contract, including the master agreement constituting a grant contract and any addenda, are subject to negotiations between the economic development authority and the other parties to the grant contract. The grant contract shall include, but not be limited to, the following provisions: the activation date, the taxes to be included in the calculation of the increment, the percentage increment to be contributed by each taxing district, the maximum amount of infrastructure development costs, a description of the development area, the termination date, subject to extension through each addendum, and the requirement of the agency to annually certify to the economic development authority as to the use of the increment for payment of infrastructure development costs.

(7) (a) Any agency that enters into a grant contract for the release of any increments that may arise during the period of a grant contract shall, after each calendar year a grant contract is in effect, notify each taxing district obligated under the grant contract that an increment is due, and, in consultation with each taxing district, determine the respective portion of the total increment due from each taxing district. The agency shall then present the total increment due from the Commonwealth under the grant contract to the Revenue Cabinet for certification.

1. Upon notice from the agency, each taxing district obligated under the grant contract, other than the Commonwealth, shall release to the agency the respective portion of the total increment due under the grant contract. The agency shall certify to the Revenue Cabinet on a calendar year basis the amount of the increment collected.

2. Upon certification of the total increment due from the Commonwealth by the Revenue Cabinet, the Cabinet is authorized and directed to transfer the increment to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the increment. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the economic development authority shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the grant contract. Upon notification, the Finance and Administration Cabinet is authorized and directed to release to the agency the Commonwealth's portion of the total increment due under the grant contract.

(b) The Revenue Cabinet shall report to the economic development authority on a calendar year basis the amount of the total increment released to an agency.

(8) The Revenue Cabinet shall have the authority to establish operating procedures for the administration and determination of the Commonwealth's increment.

(9) The Revenue Cabinet or agency shall have no obligation to refund or otherwise return any of the increment to the taxpayer from whom the increment arose or is attributable. Further, no additional increment resulting from audit, amended returns or other activity for any period shall be transferred to the tax increment financing account after the initial release to the agency of the Commonwealth's increment for that period.

SECTION 15. A NEW SECTION OF KRS CHAPTER 65.680 TO 65.699 IS CREATED TO READ AS FOLLOWS:

(1) A city, county, or agency shall submit an application to the Cabinet for Economic Development for approval of a development area, which includes revenues from the Commonwealth, and the related project, the standards for which the Cabinet for Economic Development and the Tourism Development Cabinet shall establish through their operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The Cabinet for Economic Development shall determine whether the development area and related project described in the application constitutes a project of the type described in KRS Chapter 154 for which the economic development

authority shall have the right to approve the development area and related project or KRS Chapter 148 for which the tourism development authority shall have the right to approve the development area and related project. The Cabinet for Economic Development, upon its determination, shall assign the application to the economic development authority or the tourism development authority, as appropriate, for further consideration and approval.

(2) A project otherwise satisfying the requirements of the project as defined in Section 3 of this Act, in order to qualify the project and related development area, in addition shall satisfy all of the following requirements for a project:

(a) Represent new economic activity in the Commonwealth;

(b) Result in a minimum capital investment of ten million dollars ($10,000,000);

(c) Result in the creation of a minimum of twenty-five (25) new full-time jobs for Kentucky residents to be held by persons subject to the personal income tax of the Commonwealth within two (2) years of the date of the final resolution authorizing the development area and the project;

(d) Result in a net positive economic impact to the economy of the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses;

(e) Generate a minimum of twenty-five percent (25%) of the total revenues derived from the project attributable to sources outside of the Commonwealth during each year a grant contract is in effect;

(f) Result in a unique contribution to or preservation of the economic vitality and quality of life of a region of the Commonwealth; and

(g) Not be primarily devoted to the retail sale of goods.

(3) After assignment of the application for the project and related development area by the Cabinet for Economic Development:

(a) The economic development authority or the tourism development authority, as appropriate, shall engage the services of a qualified independent consultant to analyze data related to the project and the development area, who shall prepare a report for the economic development authority or the tourism development authority, as appropriate, with the following findings:

1. The percentage of revenues derived from the development area which are generated from business not located in the Commonwealth;

2. The estimated amount of increment the development area is expected to generate over a twenty (20) year period from the projected activation date;

3. The estimated amount of ad valorem taxes, other than the school or fire district portion of ad valorem taxes, from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, or other such state taxes which would be displaced within the Commonwealth, to reflect economic activity which is being shifted over the twenty (20) year period;

4. The estimated increment the development area is expected to generate over the twenty (20) year period, equal to the estimated amount set forth in paragraph (a)2. of this subsection minus the estimated amount set forth in paragraph (a)3. of this subsection; and

5. The project or development area will not occur if not for the designation of the development area and granting of increments by the Commonwealth to the development area.

(b) The independent consultant shall consult with the economic development authority or the tourism development authority, as appropriate, the Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet in the development of the report. The Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall agree as to methodology to be used and assumptions to be made by the independent consultant in preparing its report. On the basis of the independent consultant's report and prior to any approval of a project by the economic development authority or the tourism development authority, as appropriate, the Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall certify whether there is a projected net positive economic impact to the Commonwealth and the expected amount of incremental state revenues from the project to the economic development authority or tourism development authority, as appropriate. Approval shall not be granted if it is determined that there is no projected net positive economic impact to the Commonwealth.

(c) The primary project entity shall pay all costs associated with the independent consultant's report.

(4) With respect to each city, county, or agency that applies for approval of a project and development area, the economic development authority or the tourism development authority, as appropriate, shall request materials and make all inquiries concerning the application the economic development authority or the tourism development authority, as appropriate, deems necessary. Upon review of the application and requested materials, and completion of inquiries, the economic development authority or the tourism development authority, as appropriate, may, by resolution grant approval for:

(a) The development area and project for which an application has been submitted;

(b) The percentage of the Commonwealth's portion of the increment that the Commonwealth agrees to have

distributed to the agency each year during the term of the grant contract;

(c) The maximum amount of costs for the project for which the increment may be distributed to the agency; and

(d) The grant contract.

(5) Prior to any approval by the economic development authority or the tourism development authority, as appropriate, the economic development authority or the tourism development authority shall have received an ordinance adopted by the city or county creating the development area and approving the project and establishing the percentage of increment that the city and county are distributing each year to the agency to pay for the development area for which economic development authority or tourism development authority approval is sought. The economic development authority or the tourism development authority, as appropriate, shall not approve a percentage of the Commonwealth's portion of the increment to be distributed to the agency each year with respect to a development area and project greater than the percentage approved by the city or county creating the development area.

(6) The amount of increment available for a development area shall be no more than eighty percent (80%) per year, but shall in no case exceed twenty-five percent (25%) of the project costs during the term of the grant agreement.

(7) The terms and conditions of each grant contract are subject to negotiations between the economic development authority or the tourism development authority, as appropriate, and the other parties to the grant contract. The grant contract shall include, but not be limited to, the following provisions: the activation date, the agreed taxes to be included in the calculation of the increment, the percentage increment to be contributed by the Commonwealth and other taxing districts, the maximum amount of project costs, a description of the development area and the project, the termination date, and the requirement that the agency annually certify to the economic development authority or tourism development authority, as appropriate, as to the use of the increment for payment of project costs in the development area.

(8) The agency responsible for the development area that enters into the grant contract shall, after each year the grant contract is in effect, certify to the economic development authority or the tourism development authority, as appropriate:

(a) The amount of the increment used during the previous calendar year for the project costs; and

(b) That more than twenty-five percent (25%) of the total revenues derived from the project during the previous calendar year were attributable to sources outside the Commonwealth.

(9) (a) Any agency that enters into a grant contract for the release of any increments that may arise during the period of a grant contract shall, after each calendar year a grant contract is in effect, notify each taxing district obligated under the grant contract that an increment is due. In consultation with each taxing district, the agency shall determine the respective portion of the total increment due from each taxing district, and the determination of the agency shall be reviewed by an independent certified public accountant. The agency shall submit to the Revenue Cabinet for certification its determination with respect to the total increment due together with the review of the certified public accountant and detailed information concerning ad valorem taxes, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as may be determined by the Revenue Cabinet, including withholding taxes of employees of each taxpayer located in the development area.

1. Upon notification to the agency of the total increment by the Revenue Cabinet and notice from the agency, each taxing district obligated under the grant contract, other than the Commonwealth, shall release to the agency the respective portion of the total increment due under the grant contract. The agency shall certify to the Revenue Cabinet on a calendar year basis the amount of the increments collected.

2. Upon certification of the total increment due from the Commonwealth by the Revenue Cabinet, the Cabinet is authorized and directed to transfer the increment to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the increment. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the economic development authority or the tourism development authority, as appropriate, shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the grant contract. Upon notification, the Finance and Administration Cabinet is authorized and directed to release to the agency the Commonwealth's portion of the total increment due under the grant contract.

(b) The Revenue Cabinet shall report to the economic development authority or the tourism development authority, as appropriate, on a calendar year basis the amount of the total increment released to an agency.

(10) The Revenue Cabinet shall have the authority to establish operating procedures for the administration and determination of the Commonwealth's increment.

(11) The Revenue Cabinet or agency shall have no obligation to refund or otherwise return any of the increment to the taxpayer from whom the increment arose or is attributable. Further, no additional increment resulting from audit, amended returns or other activity for any period shall be transferred to the trust account established under subsection (9)(a)2. of this section and administered by the Finance and Administration Cabinet after the initial release to the

agency of the Commonwealth's increment for that period.

Section 16. KRS 103.210 is amended to read as follows:

(1) In order to promote the economic development of the Commonwealth, promote reconversion to peacetime economy, to relieve conditions of unemployment, to aid in the rehabilitation of returning veterans, to encourage the increase of industry in this state, and to aid in the retention of existing industry through the control of pollution or through conversion of energy facilities to more readily available fuels, any city or county may borrow money and issue negotiable bonds for the purpose of defraying the cost of acquiring any industrial building or pollution control facility, either by purchase or construction, but only after an ordinance or resolution has been adopted by the legislative body of the city or the fiscal court of the county, or the governing body of Kentucky Economic Development Finance Authority, if requested by the legislative body of the city or the fiscal court of the county, as the case may be, specifying the proposed undertaking, the maximum amount of bonds to be outstanding at any one (1) time, and the maximum rate of interest the bonds are to bear. This section shall not be deemed to require, however, that such ordinance or resolution be adopted prior to interim financing of the project, if such interim financing was undertaken by the proposed lessee corporation upon the basis of discussions between the corporation and responsible officials of the issuer which were later formally ratified by the appropriate governing body of the issuer. The ordinance or resolution shall further provide that the industrial building or the pollution control facility is to be acquired pursuant to the provisions of KRS 103.200 to 103.285. Each such bond-authorizing ordinance or resolution shall be effective only after publication, in a newspaper authorized to publish official advertisements for the issuer, of the title to said ordinance or resolution, together with a statement signed by the clerk of the issuer setting forth the maximum amount of bonds to be outstanding at any one (1) time, the name of the lessee corporation, and the fact that the bonds are to be retired from the proceeds of either the lease payments as set forth in KRS 103.200 to 103.285, inclusive, or the loan payments or sale payments in the event the industrial building financing transaction is carried out pursuant to a loan agreement, sale agreement, or other ***tax incentive***[~~financing~~] agreement. No publication of the complete ordinance or resolution shall be required, but said ordinance or resolution shall be entered upon the records of the issuer and shall be available for public inspection. ***Any industrial buildings financed by bonds pursuant to KRS 103.200 to 103.285 and leased in connection with the bond financing from a tax-exempt governmental unit, or tax-exempt statutory authority, shall require the prior approval by the Kentucky Economic Development Finance Authority of the reduced ad valorem tax for industrial buildings under KRS 132.020, the standards for which the Kentucky Economic Development Finance Authority shall establish through its operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The authority shall consider, along with other indicators, when establishing standards, the number of jobs to be created, the amount of capital to be invested, and the wages and benefits to be paid.***

(2) Kentucky Economic Development Finance Authority, any air board established pursuant to KRS 183.132, and any riverport authority established as provided in KRS 65.510 to 65.650, inclusive, shall have and possess all power and authority granted to cities and counties by the provisions of KRS 103.200 to 103.285, excluding condemnation powers under KRS 103.245, for the financing of industrial buildings. For such purposes, the terms "city," "county," and "issuer" as used in KRS 103.200 to 103.285, inclusive, shall also mean and refer to Kentucky Economic Development Finance Authority, any air board established pursuant to KRS 183.132, and any riverport authority established as provided in KRS 65.510 to 65.650. The power and authority granted to Kentucky Economic Development Finance Authority, any air board, and any riverport authority shall be and constitute an additional and alternative grant of power and authority to such governmental agencies, and shall not be construed as being in derogation of any other powers vested in each of such governmental agencies.

Section 17. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of thirty-one and one-half cents ($0.315) upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103***, upon the prior approval of the Kentucky Economic Development Finance Authority***[~~directed to be assessed for taxation~~], except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of all money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81, fifteen cents ($0.15) upon machinery actually engaged in manufacturing, fifteen cents ($0.15) upon commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents ($0.15) upon property which has been certified as a pollution control facility as defined in KRS 224.01-300, one-tenth of one cent ($0.001) upon property which has been certified as an alcohol production facility as

defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five cents ($0.45) upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed, except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.300, 136.320, and other sections providing a different tax rate for particular property.

(2) (a) An annual ad valorem tax for state purposes of one and one-half cents ($0.015) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when the intangible personal properties have not acquired a taxable situs without this state:

1. Accounts receivable, notes, bonds, credits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;
2. Patents, trademarks, copyrights, and licensing or royalty agreements relating to these;
3. Notes, bonds, accounts receivable, and all other intercompany intangible personal property due from any affiliated company; and
4. Tobacco base allotments.

(b) An annual ad valorem tax for state purposes of one-thousandth of one percent (0.001%) shall be paid upon money in hand, notes, bonds, accounts, credits, and other intangible assets, whether by mortgage, pledge, or otherwise, or unsecured, of financial institutions, as defined in KRS 136.500.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school, or other taxing district on the intangible properties, or directly or indirectly against the owner.

(5) Thirty cents ($0.30) of the thirty-one and one-half cents ($0.315) state tax rate on real property and thirty cents ($0.30) of the forty-five cents ($0.45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents ($0.30), as certified by the Department of Education, the direct payments shall be reduced proportionately.

(6) The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%)***, excluding the assessment from property which is subject to tax increment financing pursuant to KRS Chapter 65 and the assessment from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents ($0.015) pursuant to subsection (1) of this section***. In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(7) By July 1 each year, the cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (5) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the cabinet shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the cabinet, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the cabinet, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(8) If the tax rate set by the cabinet as provided in subsection (6) of this section produces more than a four percent (4%) increase in real property tax revenues, ***excluding the revenue from property which is subject to tax increment financing pursuant to KRS Chapter 65 and the revenue from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents ($0.015) pursuant to subsection (1) of this section,*** the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

(9) The provisions of subsection (6) of this section notwithstanding, the assessed value of unmined coal certified by the cabinet after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (6) of this section. The calculated rate shall, however, be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 to 146.570, except that four hundred thousand dollars ($400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Kentucky Coal

Council for the purpose of public education of coal-related issues.

(10) Effective on or after January 1, 1990, an ad valorem tax for state purposes of five cents ($0.05) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business, which, on or after January 1, 1999, includes machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement; and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business.

(11) An ad valorem tax for state purposes of ten cents ($0.10) per one hundred dollars ($100) of assessed value shall be paid on the operating property of railroads or railway companies that operate solely within the Commonwealth.

(12) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on aircraft not used in the business of transporting persons or property for compensation or hire.

(13) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes.

Section 18. KRS 154.20-010 is amended to read as follows:

(1) There is created and established within the cabinet, subject to the authority of the board, the Kentucky Economic Development Finance Authority as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic with all powers, duties, and responsibilities delegated to it by the board or as otherwise provided by law, including, all programs, powers, duties, rights, and obligations of the Kentucky Development Finance Authority and the Kentucky Rural Economic Development Authority.

(2) Any interest, right, or cause of action held in whole or in part by any person, corporation, limited liability company, partnership, registered limited liability partnership, government agency, or other entity under any agreement, contract, lease, mortgage, guarantee, bond, note, refund bond, or other financial transaction or obligation, made, issued, or otherwise entered into by any of the authorities, programs, or funds specified in subsection (1) of this section or that may be delegated to the authority by the board, shall not be impaired or otherwise diminished.

(3) Any interest, right, or cause of action held in whole or in part by any of the authorities, programs, or funds specified in subsection (1) of this section shall not be impaired or otherwise diminished, but shall be assumed by the authority, for and on behalf of the cabinet.

(4) The authority shall consist of a committee of seven (7) persons, including six (6) persons appointed by the board who shall be private citizens of the Commonwealth, and the secretary of the Finance and Administration Cabinet who shall serve ex officio. Any person appointed to the committee shall have experience and expertise in business or finance.

(5) Two (2) members initially appointed to the committee shall have a term of one (1) year each, two (2) members initially appointed to the committee shall have a term of two (2) years each, and two (2) members initially appointed to the committee shall have a term of three (3) years each, except that any person appointed to fill a vacancy shall serve only for the remainder of the unexpired term. All subsequent appointments shall be for a term of three (3) years.

(6) Any person appointed to the committee shall be eligible for reappointment, including any member of the committee appointed prior to July 15, 1994.

(7) The members of the committee shall elect biennially from the committee's private citizen membership the following officers: chairman, vice chairman, secretary-treasurer, and any assistant secretaries and assistant treasurers the committee deems necessary.

(8) A majority of the members of the committee, determined by excluding any existing vacancies from the total number of members, shall constitute a quorum***. A majority vote of the members present at a duly called meeting of the committee shall be required*** for the purposes of conducting its business and exercising its powers and for all other purposes.

(9) The committee shall prepare bylaws and procedures applicable to the operations of the authority and submit them to the board to be promulgated as administrative regulations in accordance with KRS Chapter 13A.

(10) Members of the committee shall be entitled to compensation for their services in an amount of one hundred dollars ($100) for each regular meeting of the committee and shall be entitled to reimbursement for all necessary expenses in connection with the performance of their duties.

Section 19. KRS 154.22-010 is amended to read as follows:

The following words and terms as used in KRS 154.22-010 to 154.22-080, unless the context clearly indicates a different meaning, shall have the following meanings:

(1) ***"Activation date" means a date selected by an approved company in the tax incentive agreement at any time within a two (2) year period after the date of final approval of the tax incentive agreement by the authority;***

(2) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more *chains*~~[claims]~~ of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended*;*~~[.]~~

(3)~~[(2)]~~ "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products*;*~~[.~~

~~(3) "Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal.]~~

(4) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to KRS 154.22-010 to 154.22-080*;*~~[.]~~

(5) "Approved costs" means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

(f) All other costs of a nature comparable to those described above***;***[~~.~~]

(6) "Assessment" means the job development assessment fee authorized by KRS 154.22-010 to 154.22-080***;***[~~.~~]

(7) "Authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010***;***[~~.~~]

(8) ***"Average hourly wage" means the most current wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand and eighty (2,080) hour work year for the following sectors:***

(a) Manufacturing;

(b) Transportation, communications and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance and real estate; and

(e) Services;

[~~"Bonds" means the revenue bonds, notes, or other debt obligations of the authority authorized to be issued by the authority, eligible companies, or other state agency.~~]

(9) "Commonwealth" means the Commonwealth of Kentucky***;***[~~.~~]

(10) (a) "Economic development project" means and includes:

1. The acquisition of ownership in any real estate in a qualified county by the authority, the approved manufacturing or agribusiness company, or its affiliate;

2. The present ownership of real estate in a qualified county by the approved manufacturing or agribusiness company or its affiliate;

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved manufacturing or agribusiness company pursuant to a ground lease having a term of sixty (60) years or more; and

4. The new construction of an electric generation facility***;***[~~.~~]

(b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) or paragraph (b) of this subsection, the construction, installation, equipping, and rehabilitation of improvements, including fixtures and equipment, and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities on the real estate, for use and occupancy by the approved company or its affiliates for manufacturing purposes, electric generation, or for agribusiness purposes. Pursuant to subparagraph 3. of paragraph (a) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.22-010 to 154.22-080***;***[~~.~~]

(11) ***"Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal;***

(12) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in manufacturing, electric generation, or in agribusiness***;***[~~.~~]

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(K) or similar plans;

(14)[~~(12)~~] "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter*;*[~~.~~

~~(13) "Financing agreement" means any agreement entered into, pursuant to KRS 154.22-010 to 154.22-080, on behalf of the authority or other lenders, or both, and an approved company with respect to an economic development project.~~]

(15) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(16)[~~(14)~~] "Inducements" means the assessment and the income tax credits allowed by KRS 154.22-060*;*[~~.~~]

(17)[~~(15)~~] "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity related to it, together with the storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals*;*[~~.~~]

(18)[~~(16)~~] "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter*;*[~~.~~]

(19)[~~(17)~~] "Qualified county" means any county certified as such by the authority pursuant to KRS 154.22-010 to 154.22-080*;*[~~.~~]

(20)[~~(18)~~] "Revenues" shall not be considered state funds*;*[~~.~~]

(21)[~~(19)~~] "State agency" shall have the meaning assigned to the term in KRS 56.440(8)*; and*

(22) "Tax incentive agreement" means the agreement entered into, pursuant to Section 21 of this Act, between the authority and an approved company with respect to an economic development project.

Section 20. KRS 154.22-040 is amended to read as follows:

(1) Each year the authority shall under its Rural Economic Development Assistance Program, on the basis of the final unemployment figures calculated by the Department for Employment Services within the Cabinet for Workforce Development, determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in the most recent five (5) consecutive calendar years, or which have had an average countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth by two hundred percent (200%) in the most recent *calendar year*[~~twelve (12) consecutive months for which unemployment figures are available~~], and shall certify those counties as qualified counties. *A county not certified on the basis of final unemployment figures may also be certified as a qualified county if the authority determines the county is one (1) of the sixty (60) most distressed counties in the Commonwealth based on the following criteria with equal weight given to each criterion:*

(a) The average countywide rate of unemployment in the most recent three (3) consecutive calendar years, on the basis of final unemployment figures calculated by the Department for Employment Services in the Cabinet for Workforce Development;

(b) In each county the percentage of adults twenty-five (25) years of age and older who have attained at least a high school education or equivalent, on the basis of the most recent data available from the United States Department of Commerce, Bureau of the Census; and

(c) Road quality, as quantified by the access within a county to roads ranked in descending order from best quality to worst quality as follows: two (2) or more interstate highways, one (1) interstate highway, a state four (4) lane parkway, four (4) lane principal arterial access to an interstate highway, state two (2) lane parkway and none of the preceding road types, as certified by the Kentucky Transportation Cabinet to the authority.

If the authority determines that a county which has previously been certified as a qualified county no longer[~~ has an unemployment rate that~~] meets the criteria of this subsection, the authority shall decertify that county. The authority shall not *provide inducements for*[~~finance~~] any facilities in that county and an approved company shall not be eligible for the *inducements*[~~incentives~~] offered by KRS 154.22-010 to 154.22-070 unless the *tax incentive*[~~financing~~] agreements required herein are entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that county. *In addition, the authority shall certify coal-producing counties, not otherwise certified as qualified counties in this subsection,* for economic development projects involving the new construction of electric generation facilities[~~, the authority shall certify every coal producing county as a qualified county~~]. A coal producing county shall mean a county in the Commonwealth of Kentucky that has produced coal upon which the tax imposed under KRS 143.020 was paid at any time. *For economic development projects undertaken in a regional industrial park, as defined in Section 1 of this Act, where the physical boundaries of the regional industrial park lie within two (2) or more counties of which at least one (1) of the counties is a qualified county under this section, an eligible company undertaking an economic development project within the physical boundaries of the regional industrial park may be approved for the inducements under KRS 154.22-010 to 154.22-080.*

(2) The authority shall establish the procedures and standards for the determination and approval of eligible companies and their economic development projects by the promulgation of administrative regulations in accordance with KRS Chapter

13A. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project.

(3) The economic development project shall involve a minimum investment of one hundred thousand dollars ($100,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final approval authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development project for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension.

(4) (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:

1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or

2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.

(b) If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. In addition to the applicable base hourly wage calculated above, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits.

(5) No economic development project which will result in the replacement of ***agribusiness,*** manufacturing***,*** or electric generation facilities existing in the state shall be approved by the authority; however, the authority may approve an economic development project that:

(a) Rehabilitates ***an agribusiness,***[~~a~~] manufacturing***,*** or electric generation facility:

1. Which has not been in operation for a period of ninety (90) or more consecutive days; or

2. ***For which the current occupant of the facility has published a notice of closure so long as the eligible company intending to acquire the facility is not an affiliate of the current occupant; or***

3. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;

(b) Replaces ***an agribusiness,***[~~a~~] manufacturing***,*** or electric generation facility existing in the Commonwealth:

1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

(c) Replaces an existing ***agribusiness,*** manufacturing***,*** or electric generation facility located in the same qualified county, and the existing ***agribusiness,*** manufacturing***,*** or electric generation facility to be replaced cannot be expanded due to the unavailability of real estate at or adjacent to the ***agribusiness,*** manufacturing***, or electric generation*** facility to be replaced. Any economic development project satisfying the requirements of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the ***agribusiness*** manufacturing***,*** or electric generation facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority which results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

(6)[~~(4)~~] With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. Upon review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project. After preliminary approval[~~ and completion by the eligible company of its bond, loan, or other financing and review thereof by the authority,~~] the authority may by final approval designate an eligible company to be an approved company.

Section 21. KRS 154.22-050 is amended to read as follows:

The authority may enter into, with any approved company, a *tax incentive*[~~financing~~] agreement with respect to its economic development project, upon adoption of a resolution authorizing the *tax incentive*[~~financing~~] agreement. Subject to the inclusion of the mandatory provisions set forth below, the terms and provisions of each *tax incentive*[~~financing~~] agreement shall be determined by negotiations between the authority and the approved company.

(1) *The tax incentive agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.*

(2) The approved company shall expend the authorized approved costs for the economic development project within three (3) years of the date of the final approval by the authority.

(3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.

(4) The term of the tax incentive agreement shall commence upon the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or fifteen (15) years after the activation date.

(5) The tax incentive agreement shall include the activation date. To implement the activation date, the approved company shall notify the authority, the Revenue Cabinet, and the approved company's employees of the activation date when the implementation of the inducements authorized in the tax incentive agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of subsection (3) of Section 20 of this Act by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the fifteen (15) year period for the term of the tax incentive agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of subsection (3) of Section 20 of this Act within two (2) years from the date of final approval of the tax incentive agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(6) The approved company shall comply with the hourly wage criteria set forth in subsection (4) of Section 20 of this Act and provide documentation in connection with hourly wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.

(7) The approved company may be permitted the following inducements during the term of the tax incentive agreement:

(a) A one-hundred percent (100%) credit against the Kentucky income tax that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising from the economic development project; and

(b) The aggregate assessments withheld by the approved company in each year.

(8) The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The total inducements may not exceed authorized cumulative approved costs paid by the approved company in the period commencing with the date of final approval.

(9) The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042 on the Kentucky taxable income generated by or arising from the economic development project.

(10) The tax incentive agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(11) The tax incentive agreement shall provide that if an approved company fails to comply with its obligations under the tax incentive agreement then the authority shall have the right, at its option, to:

(a) Suspend the income tax credits and assessments available to the approved company;

(b) Pursue any remedy provided under the tax incentive agreement, including termination thereof; and

(c) Pursue any other remedy at law to which it may be entitled.

(12) All remedies provided in subsection (11) of this section shall be deemed to be cumulative.[~~If an eligible company, at the time of submission of its application to the authority to become an approved company, requests the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with the issuance of bonds by the authority shall include the following provisions:~~

~~(a) The term of a financing agreement shall not be less than the last maturity of the bonds issued with respect to the economic development project, except that the financing agreement may terminate upon the earlier redemption of all of the bonds issued with respect to the economic development project and, if the authority owns the economic development project, the authority may grant to the approved company or its affiliate an option to purchase, for the consideration the authority may approve, the economic development project from the authority upon the termination of the financing agreement. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refunding of the correlative bonds or otherwise.~~

~~(b) All proceeds of any bonds incurred in connection with the economic development project shall be expended by the~~

~~approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of bonds incurred in connection with the economic development project are not fully expended within the three (3) year period, the amount of the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.~~

~~(c) The financing agreement shall specify that the annual obligations of the approved company pursuant to KRS 154.22-010 to 154.22-080 shall equal in each year the annual debt service for that year on the bonds issued with respect to the economic development project; and the approved company shall pay such obligation of the financing agreement to the trustee for bonds issued for the benefit of the approved company, at such time and in such amounts sufficient to amortize such bonds.~~

~~(d) 1. In consideration for financing agreement payment, the approved company may be permitted the following during the period of time not to exceed fifteen (15) years from the activation date in which the financing agreement is in effect, which period of time shall commence for purposes of the following upon the date of the financing agreement.~~

~~a. A one hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, the credit not to exceed the total debt service paid under the respective financing agreement; plus~~

~~b. The aggregate assessment withheld by the approved company in each year.~~

~~2. The income tax credited to the approved company referred to herein shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.~~

~~(e) 1. The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax herein granted, shall not exceed the total financing agreement annual payment by the approved company in any year; however, to the extent that financing agreement annual payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.~~

~~2. If in any fiscal year of the approved company during which the financing agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year.~~

~~3. If in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax.~~

~~4. If in any fiscal year of the approved company during which the financing agreement is in effect the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees' wages next succeeding the first date when the approved company collected excess assessments.~~

~~(f) The financing agreement shall provide in substance that:~~

~~1. It may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to such effect; and~~

~~2. Upon default by the approved company in any obligations under the financing agreement or other documents evidencing, securing, or related to the approved company's obligations, the authority, or any of its assignees, shall have the right, at its option, to declare the financing agreement or other such documents in default; and~~

~~a. Accelerate and declare the total of all such payments due by the approved company and sell the economic development project at public, private, or judicial sale;~~

~~b. Pursue any remedy provided under the financing agreement or other such documents;~~

~~c. Pursue all other remedies available to it under the Kentucky Uniform Commercial Code;~~

~~d. Be entitled to the appointment of a receiver by the Circuit Court wherein any part of the economic development project is located; and~~

~~e. Pursue any other remedy at law to which it appears entitled.~~

~~3. All remedies provided in subsection (1)(f)2. of this section shall be deemed cumulative.~~

~~(2) If an eligible company, at the time of submission of its application to the authority to become an approved company, does not request the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with loans or other financing (other than bonds issued by the authority for which subsection (1) of this section shall be used) shall include the following provisions:~~

~~(a) The term of a financing agreement, which shall commence on the date of the financing agreement, shall not be longer than:~~

~~1. The maturity of any loan or other financing incurred in connection with the economic development project, except that the financing agreement may terminate upon the earlier prepayment of all loans or other financing incurred in connection with the economic development project; or~~

~~2. Fifteen (15) years from the activation date.~~

~~3. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refinancing of the loans or other financing. The authority shall not own an economic development project that is the subject of this form of financing agreement.~~

~~(b) All proceeds of any loan or other financing incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic development project are not fully expended within the three (3) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.~~

~~(c) 1. The approved company may be permitted the following during the term of the financing agreement:~~

~~a. A one hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, such credit not to exceed the total debt service paid with respect to the loans or other financing incurred in connection with the economic development project; plus~~

~~b. The aggregate assessment withheld by the approved company in each year.~~

~~2. The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.~~

~~(d) 1. The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax as provided in KRS 154.22-060, shall not exceed the total annual debt service payments of the approved company with respect to the loans or other financing incurred in connection with the economic development project in any year; however, to the extent that such annual debt service payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.~~

~~2. If, in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company, plus the assessment collected from the wages of the employees, equals the annual debt service payments with respect to the loans or other financing incurred in connection with the economic development project, and if all excess payments with respect to the loans or other financing incurred in connection with the economic development project accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company and the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year.~~

~~3. If in any fiscal year of the approved company during which the financing agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax.~~

~~4. If in any fiscal year of the approved company during which the financing agreement is in effect the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior~~

~~years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees wages next succeeding the first date when the approved company collected excess assessments.~~

~~(e) The financing agreement shall provide in substance that it may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.~~

~~(f) The financing agreement shall provide that an approved company shall require of any lender to the approved company funding the loans or other financing incurred in connection with the economic development project written evidence to be provided to the authority of payments of all annual debt service to such lender. Such evidence shall be provided to the authority within forty five (45) days after the end of each fiscal year of the financing agreement.~~

~~(g) The financing agreement shall provide that if an approved company fails to comply with its respective obligations under the financing agreement, or that the lender to an approved company fails to comply with its requirements set forth in subsection (2)(f) of this section, or is declared in default under the loans or other financing incurred in connection with the economic development project, then the authority, or any of its assignees, shall have the right, at its option, to:~~

~~1. Suspend the availability of the income tax credits and job development assessment fees to the approved company;~~

~~2. Pursue any remedy provided under the financing agreement, including termination thereof; and~~

~~3. Pursue any other remedy at law to which it appears entitled.~~

~~(3) All remedies provided in subsection (2)(g) of this section shall be deemed cumulative.~~

~~(4) Pursuant to this section, the activation date shall be established by the approved company in the financing agreement at any time in a two (2) year period after the date of final approval of the financing agreement by the authority. To implement the activation date, the approved company shall notify the authority, the Revenue Cabinet, and the approved company's employees of the activation date when the implementation of the inducements authorized in the financing agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040(3) by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the fifteen (15) year period for the term of the financing agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040(3) within two (2) years from the date of final approval of the financing agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.]~~

Section 22. KRS 154.22-060 is amended to read as follows:

(1) The approved company shall be entitled to a credit against the Kentucky income tax liability mandated by KRS Chapter 141, on any income that may result from the operation of the approved economic development project; the credit shall be equal to the total amount of the tax liability, and together with the aggregate assessments not to exceed the ***maximum amount of inducements as set forth in the tax incentive agreement***~~[total debt service paid:~~

~~(a) Under the financing agreement in connection with the economic development project financed by bonds as described in KRS 154.22-050(1); or~~

~~(b) On loans or other financing, as described in KRS 154.22-050(2), incurred in connection with the economic development project, as described in KRS 154.22-050(2)]~~.

(2) By October 1 of each year, the Revenue Cabinet of the Commonwealth shall certify to the authority in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year, and assessments taken by approved companies with respect to their economic development projects during the prior calendar year under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits equal to its total inducements.

Section 23. KRS 154.22-070 is amended to read as follows:

(1) The approved company ***or, with the authority's consent, an affiliate of the approved company*** may require that each employee subject to state tax imposed by KRS 141.020, as a condition of employment, agree to pay ***an***~~[a job development]~~ assessment~~[fee]~~, equal to four percent (4%) of the gross wages of each employee whose job was created as a result of the economic development project, for the purpose of ***recovering authorized approved costs as set forth in the tax incentive agreement.***~~[retiring:~~

~~(a) The bonds, as described in KRS 154.22-050(1), which fund the economic development project; or~~

~~(b) The loans or other financing as described in KRS 154.22-050(2), incurred in connection with the economic~~

~~development project.~~]

(2) Each employee so assessed shall be entitled to credits against Kentucky income tax equal to the[~~ job development~~] assessment[~~ fee~~] withheld from wages during the calendar year as provided by KRS 141.310 and 141.350.

(3) If an approved company shall elect to impose the assessment as a condition of employment, it shall be authorized to deduct the assessment from each paycheck of each employee.

(4) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the authority at such reasonable times as the authority shall request and shall file with the authority documentation respecting the assessment as the authority may require.

[~~(5) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project pursuant to subsection (1) of this section shall permanently lapse on the date:~~

~~(a) The bonds, as described in KRS 154.22-050(1), are retired; or~~

~~(b) Any loans or other financing, as described in KRS 154.22-050(2), incurred in connection with the economic development project mature or are prepaid in full.~~]

SECTION 24. A NEW SECTION OF SUBCHAPTER 22 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

If the authority adopts a preliminary resolution designating an eligible company as an approved company and preliminarily approving the project of the eligible company as an economic development project prior to July 15, 2002, and the authority adopts a final resolution approving the eligible company as an approved company and the project of the eligible company as an economic development project, and the authority and the eligible company enter into a financing agreement no later than June 30, 2003, then the approved company thereafter shall be subject to KRS 154.22-010 to 154.22-100 as in effect prior to July 15, 2002.

Section 25. KRS 154.23-010 is amended to read as follows:

As used in KRS 154.23-005 to 154.23-079, unless the context clearly indicates otherwise:

(1) "Approved company" means an eligible company that locates an economic development project in a qualified zone, as provided for in KRS 154.23-030;

(2) "Approved costs" means:

(a) For an approved company that establishes a new manufacturing facility or expands an existing manufacturing facility, the following obligations incurred in its economic development project, including rent under leases subject to subsection (6)(b)4. of this section:

1. The cost of labor, contractors, subcontractors, builders, and material workers in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

2. The cost of acquiring real estate or rights in land and any cost incidental thereto, including recording fees;

3. The cost of contract bonds and insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project that is not paid by the contractor or contractors or otherwise provided for;

4. The cost of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all duties required by or consequent to the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

5. All costs required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

6. All other costs of a nature comparable to those described above; or

(b) For an approved company that establishes a new service or technology business or expands existing service or technology operations, up to a maximum of fifty percent (50%) of the total start-up costs during the term of the service and technology agreement, plus up to a maximum of fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(3) "Assessment" means the job development assessment fee authorized by KRS 154.23-055;

(4) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;

(5) ***"Average hourly wage" means the most current wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand and eighty (2,080) hour work year for the following sectors:***

(a) Manufacturing;

(b) Transportation, communications and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance and real estate; and

(e) Services;

(6) "Commonwealth" means the Commonwealth of Kentucky;

(7)[~~(6)~~] "Economic development project" or "project" means:

(a) A service or technology activity conducted by an approved company; or

(b) Any of the following activities of an approved company engaged in manufacturing:

1. The acquisition of or present ownership in any real estate in a qualified zone for the purposes described in KRS 154.23-005 to 154.23-079, which ownership shall include only fee simple ownership of real estate and possession of real estate according to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976;
2. The acquisition or present ownership of improvements or facilities on land that is possessed or is to be possessed by the approved company in a ground lease having a term of sixty (60) years or more; provided, however, that this project shall not include lease payments made under a ground lease for purposes of calculating the tax credits offered under KRS 154.23-005 to 154.23-079;
3. The construction, installation, equipping, and rehabilitation of improvements, fixtures, equipment, and facilities necessary or desirable for improvement of the real estate owned, used, or occupied by the approved company for manufacturing purposes. Construction activities include surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and providing drainage and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electric, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; or similar activities as the authority may determine necessary for construction; and
4. The leasing of real estate and the buildings and fixtures thereon acquired, constructed, and installed with funds from grants under KRS 154.23-060;

(8)[~~(7)~~] "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other legal entity engaged in manufacturing, or service or technology; however, any company whose primary purpose is retail sales shall not be an eligible company;

(9) "Employee benefits" means non-mandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(K) or similar plans;

(10)[~~(8)~~] "Final approval" means action taken by the authority that authorizes the eligible company to receive inducements in connection with a project under KRS 154.23-005 to 154.23-079;

(11) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

[~~(9) "Financing agreement" means any agreement entered into, under KRS 154.23-035, on behalf of the authority or other lenders, or both, and an approved company engaged in manufacturing with respect to an economic development project;~~]

(12)[~~(10)~~] "Inducements" means the assessment and the income tax credits allowed to an approved company under KRS 154.23-050 and 154.23-055;

(13)[~~(11)~~] "Local government" means a city, county, or urban-county government;

(14)[~~(12)~~] "Manufacturing" means to make, assemble, process, produce, or perform any other activity that changes the form or conditions of raw materials and other property, and shall include any ancillary activity to the manufacturing process, such as storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, the extraction of minerals or coal, or processing of these resources;

(15)[~~(13)~~] "Preliminary approval" means action taken by the authority that conditions final approval of an eligible company and its economic development project upon satisfaction by the eligible company of the applicable requirements under KRS 154.23-005 to 154.23-079;

(16)[~~(14)~~] "Qualified employee" means an individual subject to Kentucky income tax who has resided in the qualified zone where the project exists for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(17)[~~(15)~~] "Qualified statewide employee" means an individual subject to Kentucky income tax who has resided in any census tract or county in the Commonwealth that meets the criteria in KRS 154.23-015, regardless of whether the tract or county is in a qualified zone, for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(18)[~~(16)~~] "Qualified zone" means any census tract or county certified as such by the authority in KRS 154.23-015 and 154.23-020;

(19)[~~(17)~~] "Relocation costs" mean identified expenditures by an eligible company for moving costs, separation costs, and any other expenditures substantiated by the eligible company that are directly related to a move from an existing location

outside of a qualified zone to a qualified zone location;

(20)[~~(18)~~] "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved project for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved project for which the inducement has been granted as determined by the authority using criteria that are customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized; and

(c) Rent shall include the customary cost of occupancy that includes, but is not limited to, property taxes, heating and air conditioning, electricity, sewer, and insurance;

(21)[~~(19)~~] "Service and technology agreement" means any agreement entered into, under KRS 154.23-040, on behalf of the authority, an approved company engaged in service or technology, and third-party lessors, if applicable, with respect to an economic development project;

(22)[~~(20)~~] "Service or technology" means any activity involving the performance of work not otherwise classified by division, including successor divisions of agriculture, forestry and fishing, mining, construction, and manufacturing, in accordance with the "Standard Industrial Classification Manual," as revised by the United States Office of Management and Budget from time to time, or any successor publication;[~~ and~~]

(23)[~~(21)~~] "Start-up costs" mean the cost of furnishing and equipping a building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment, and relocation costs as verified and approved by the authority in accordance with KRS 154.23-040*;*[~~.~~]

(24) "Tax incentive agreement" means that agreement entered into, pursuant to Section 29 of this Act, between the authority and an approved company with respect to an economic development project; and

(25) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a

grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended.

Section 26. KRS 154.23-015 is amended to read as follows:

(1) Upon written application by a county, urban-county government, or city of the first class, the authority shall certify one (1) to five (5) contiguous census tracts or a county certified by the authority in accordance with KRS 154.22-040 as a qualified zone. In the case of certification based on one (1) to five (5) contiguous census tracts, each census tract shall independently meet each of the following criteria, as verified by the Department for Employment Services within the Cabinet for Workforce Development:

(a) A minimum total poverty rate of one hundred fifty percent (150%) of the United States poverty rate as determined by the most recent decennial census;

(b) An unemployment rate that exceeds the statewide unemployment rate as determined on the basis of the most recent decennial census; and

(c) A minimum population density of two hundred percent (200%) of the average Kentucky census tract population density as determined by the most recent decennial census.

(2) Census tract information shall be based upon United States census data as set forth in the most recent edition of Census of Population and Housing: Population and Housing Characteristics for Census Tracts and Block Numbering Areas published by the United States Bureau of the Census.

(3) The authority shall certify no more than one (1) qualified zone within each county of the Commonwealth, except in the case of a county certified under KRS 154.22-040, the entire county shall constitute the qualified zone.

(4) A qualified zone shall commence on the date of certification by the authority and continue thereafter, except that at the time new decennial census data becomes available, the authority shall decertify any census tract that no longer meets the criteria of subsection (1) of this section for qualified zone status. The authority shall not give preliminary approval to any project in a decertified census tract. An approved company whose project is located in a decertified census tract shall not be eligible for the inducements offered by KRS 154.23-005 to 154.23-079, unless the ***tax incentive***~~[financing]~~ agreement or service and technology agreement is entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that tract.

(5) Decertification of a census tract by the authority under subsection (4) of this section shall not be construed to split a qualified zone, change the boundary of the initial qualified zone, or create more than one (1) qualified zone per county.

(6) A county, urban-county government, or city of the first class shall have no authority to request decertification of a census tract, and any addition of a census tract requested by a county, urban-county government, or city of the first class under KRS 154.23-020 shall be contiguous to a census tract that continues to meet the criteria under this section.

(7) The authority shall pay its costs of counsel relating to zone certification.

Section 27. KRS 154.23-025 is amended to read as follows:

(1) Relevant standards for approval of eligible companies and economic development projects shall include, but are not limited to, creditworthiness of the eligible company, the number of new jobs to be provided by a project to Kentucky residents, and the likelihood that the project will be an economic success.

(2) An eligible company shall certify to the authority by written application that it makes the following commitments in an economic development project:

(a) A minimum investment of one hundred thousand dollars ($100,000) in the project;

(b) Creation of a minimum of ten (10) new full-time jobs at the project site for qualified employees;

(c) A statement that no significant number of existing jobs in the Commonwealth will be lost or adversely affected due to approval of the eligible company and its economic development project; and

(d) A statement that the economic development project could reasonably and efficiently locate outside the qualified zone and, without the inducements offered by the authority, the eligible company would likely locate outside the zone.

(3) (a) No project that will result in the replacement of an existing manufacturing or service or technology facility existing in the Commonwealth shall be approved by the authority; however, the authority may approve a project if the project ***is one***:

1. ***a.*** ***That*** rehabilitates a manufacturing or service or technology facility that has not been in operation***; or***

b. For which the current occupant of the facility has published a notice of closure so long as the eligible company intending to acquire the facility is not an affiliate of the current occupant;~~[,]~~ or

c. To which the title~~[to which]~~ is vested in one other than the eligible company and that is sold or transferred under a foreclosure ordered by a court of competent jurisdiction or by order of bankruptcy court;

2. Replaces a manufacturing or service or technology facility existing in the Commonwealth that been damaged or destroyed by fire, or the title to which shall have been taken under the exercise of the power of eminent domain or is the subject of a nonappealable judgment that grants the power of eminent domain to the authority, in any of these events to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

3. Replaces an existing manufacturing or service or technology facility located in the same qualified zone that cannot be expanded due to the lack of available real estate at or adjacent to the manufacturing or service or technology facility to be replaced. Any economic development project satisfying the requirements of this paragraph of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing or service or technology facility to be replaced.

(b) No economic development project otherwise satisfying the requirements of paragraph (a) of this subsection shall be approved by the authority that results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

(4) (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:

1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or

2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.

(b) If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. In addition to the applicable base hourly wage calculated above, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits.

Section 28. KRS 154.23-030 is amended to read as follows:

(1) With respect to each eligible company that applies to the authority for inducements, and with respect to the project described in its application, the authority shall request materials and make all inquiries concerning the application the authority deems necessary. Upon review of the application and requested materials, and completion of initial inquiries, the authority may, by resolution of the board of directors, grant preliminary approval to the eligible company. The authority shall approve a report describing the economic development project, that shall set out as follows:

(a) The name, qualified zone location, business, and standard industrial classification of the eligible company;

(b) The nature of the economic development project;

(c) The use and projected amounts of the inducements to be available to the eligible company by year; and

(d) Other information as the authority may require.

(2) After preliminary approval,~~[completion of its loan, other financing or leasing as permitted by KRS 154.23-010(6)(b)4. by~~

~~an eligible company engaged in manufacturing activities with respect to its economic development project, and review thereof by the authority,~~] the authority may, by resolution of its board of directors, designate an eligible company to be an approved company, and execute a *tax incentive*[~~financing~~] agreement *between*[~~among~~] the *approved*[~~eligible~~] company *and*[~~,~~] the authority[~~, lenders, if applicable, and lessor, if applicable~~].

(3) Within a one (1) year period following preliminary approval of an eligible company engaged in service or technology activities with respect to its economic development project, the authority may designate the eligible company as an approved company and execute a service and technology agreement among the *approved*[~~eligible~~] company, the authority, and lessors, if applicable. If final approval of an eligible company does not occur within the one (1) year period as provided in this subsection, then the eligible company's request for designation and project authorization shall be considered denied.

(4) The decision to grant an eligible company the status of an approved company shall be solely that of the authority, which shall base its decision upon consideration of all information provided.

Section 29. KRS 154.23-035 is amended to read as follows:

[~~(1)~~]The authority, upon adoption of an authorizing resolution, may enter into a *tax incentive*[~~financing~~] agreement with any approved company engaged in manufacturing activities with respect to its economic development project[~~, other lenders, if applicable, and lessor, if applicable~~]. The terms and provisions of each *tax incentive*[~~financing~~] agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, subject to the inclusion of the following mandatory provisions:

(1) The tax incentive agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.

(2) The approved company shall expend the authorized approved costs within three (3) years of the date of the final approval by the authority.

(3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.

(4) The term of the tax incentive agreement shall commence upon the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or ten (10) years after the activation date.

(5) The tax incentive agreement shall include the activation date, which shall be a date selected by the approved company within two (2) years of the date of final approval by the authority of the tax incentive agreement. If the approved company does not satisfy the minimum investment and minimum employment requirements of Section 27 of this Act by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the ten (10) year period for the term of the tax incentive agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of Section 27 of this Act within two (2) years from the date of final approval of the tax incentive agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(6) The approved company shall comply with the hourly wage criteria set forth in subsection (4) of Section 27 of this Act and provide documentation in connection with hourly wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.

(7) The approved company may be permitted the following inducements during the term of the tax incentive agreement:

  (a) A one-hundred percent (100%) credit against the Kentucky income tax that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.401, to the Commonwealth by the approved company on the income of the approved company generated by or arising from the economic development project; and

  (b) The aggregate assessments withheld by the approved company each year.

(8) The total inducements may not exceed authorized cumulative approved costs paid by the approved company in the three (3) year period commencing with and after the date of final approval.

(9) The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042 on the Kentucky taxable income generated by or arising from the economic development project.

(10) The tax incentive agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(11) The tax incentive agreement shall provide that if the total number of full-time qualified employees at the site of the economic development project is less than ten (10), the authorized inducements shall be suspended until at least ten (10) full-time qualified employees are employed by the approved company at the project site.

(12) The tax incentive agreement shall provide that if an approved company fails to comply with its obligations under the

tax incentive agreement then the authority shall have the right, at its option, to:

(a) Suspend the income tax credits and assessments available to the approved company;

(b) Pursue any remedy provided under the tax incentive agreement, including termination thereof; and

(c) Pursue any other remedy at law to which it may be entitled.

(13) All remedies provided in subsection (12) of this section shall be deemed to be cumulative.

(14) The approved company shall pay all costs of counsel to the authority resulting from approval of its economic development project.

[~~(a) The term of a financing agreement, that shall commence on the date of the financing agreement, and shall not be longer than the earliest of:~~

~~1. The maturity of any loan or other financing incurred in connection with the economic development project, except that the financing agreement may terminate upon the earlier prepayment of all loans or other financing incurred in connection with the economic development project;~~

~~2. The termination of any lease under KRS 154.23-010(6)(b)4.; or~~

~~3. Ten (10) years from the activation date of the original financing agreement.~~

~~4. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refinancing of the loans or other financing, or the financing of the balance of the purchase price of an economic development project originally leased in accordance with KRS 154.23-010(6)(b)4.~~

~~(b) All proceeds of any loan or other financing incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic development project are not fully expended within the three (3) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period;~~

~~(c) The approved company may be permitted the following inducements during the term of the financing agreement:~~

~~1. An income tax credit of up to one hundred percent (100%) of the Kentucky income tax liability imposed by KRS 141.020 or 141.040 that would otherwise be due, determined under KRS 141.401, on the income of the approved company generated by or arising out of the economic development project, as limited by the provisions of this section and KRS 154.23-045; and~~

~~2. The assessment, if applicable, withheld by the approved company in each year;~~

~~(d) The income tax credit for the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042;~~

~~(e) The assessments, if applicable, when added to the credit for the Kentucky income tax as provided in KRS 154.23-050, shall not exceed the total annual payment made under the financing agreement in connection with the project in any year; however, to the extent that this annual payment exceeds credits received and assessments collected in any year, this excess payment may be recouped from excess credits or assessment collections in succeeding years;~~

~~(f) If, in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company plus the assessments collected from the wages of the qualified statewide employees equals the annual payment in the financing agreement, and if all excess payments in the financing agreement accumulated in prior years have been recouped, the assessments collected from the wages of the qualified statewide employees shall cease for the remainder of that fiscal year, and the approved company shall resume normal personal income tax and occupational license fee withholdings from the qualified statewide employees' wages for the remainder of that fiscal year;~~

~~(g) If, in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the qualified statewide employees exceeds the annual payment in the financing agreement, and if all excess payments in the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax;~~

~~(h) If, in any fiscal year of the approved company during which the financing agreement is in effect, the assessment collected from the wages of qualified statewide employees exceeds the annual payment in the financing agreement, and if all excess payments in the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the qualified statewide employees shall cease for the remainder of that fiscal year, the approved company shall resume normal personal income tax and occupational license fee withholdings from the qualified statewide employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for qualified statewide employees' wages next succeeding the first date when the approved company collected excess assessments;~~

~~(i) The financing agreement may be assigned by the approved company only upon the prior written consent of the authority;~~

~~(j) An approved company shall require any lender to the approved company funding loans or other financing incurred in connection with the economic development project to provide written evidence to the authority of payments of all annual debt service to the lender. An approved company shall require any lessor under a lease subject to KRS 154.23-010(6)(b)4. to provide written evidence to the authority of payment of rent to the lessor. This evidence shall be provided to the authority within forty-five (45) days after the end of each fiscal year during the term of the financing agreement;~~

~~(k) If the total number of qualified employees at the site of the economic development project is less than ten (10), the authorized inducements shall be suspended until at least ten (10) full-time qualified employees are employed by the approved company at the project site;~~

~~(l) If an approved company fails to comply with its respective obligations under the financing agreement or is declared in default under the loans or other financing incurred in connection with the economic development project or the lease under KRS 154.23-010(6)(b)4., or if the lender to an approved company or the lessor, as applicable, fails to comply with its requirements set forth in subsection (1)(j) of this section, then the authority, or any of its assignees, shall have the right, at its option, to:~~

~~1. Suspend the availability of the income tax credits and assessments to the approved company;~~

~~2. Pursue any remedy provided under the financing agreement, including termination thereof; and~~

~~3. Pursue any other remedy at law to which it appears entitled; and~~

~~(m) The approved company shall pay all costs of counsel to the authority resulting from approval of its economic development project.~~

~~(2) All remedies provided in subsection (1)(l) of this section shall be deemed cumulative.~~

~~(3) Under this section, the activation date shall be established by the approved company in the financing agreement, which shall be at any time within a two (2) year period after the date of final approval of the financing agreement by the authority. To implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, the approved company's qualified statewide employees, and the affected local jurisdictions, if any, of the activation date when implementation of the inducements authorized in the financing agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.23-025 by the activation date, then the approved company shall not be entitled to receive inducements under KRS 154.23-005 to 154.23-079 until the approved company satisfies the requirements; in any event, the ten (10) year period for the term of the financing agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.23-025 within two (2) years from the date of final approval of the financing agreement, then the approved company shall be ineligible to receive inducements under KRS 154.23-005 to 154.23-079.]~~

Section 30. KRS 154.23-045 is amended to read as follows:

(1) If an eligible company operates an existing business in a qualified zone, and wishes to expand that business within the zone, the eligible company may submit an application to the authority to become an approved company under KRS 154.23-025.

(2) If the eligible company under subsection (1) of this section becomes an approved company, the authority shall determine a base level of employment in the Commonwealth, a base level of state income tax liability, and a base level of manufacturing or service or technology activity, as applicable, of the approved company for determining eligible credits for the approved company's project during the term of a ***tax incentive***[~~financing~~] agreement or service and technology agreement. The base level shall be determined by taking into consideration any seasonal fluctuations or aberrations of employment levels during the preceding three (3) years. Notwithstanding the determination of a base level of employment in the Commonwealth, no qualified statewide employee who is an employee of this business prior to the date of the preliminary approval by the authority as prescribed in KRS 154.23-030 shall be subject to assessment.

(3) The authority shall identify, by name, all of the existing qualified statewide employees employed by the eligible company prior to preliminary approval, and these employees shall be exempt from the assessment. If any of these employees cease working in the activity, then another qualified statewide employee shall be added to the base level of employment, based on the earliest date of entry into the work force, and this employee shall be exempt from the assessment. The authority may negotiate with the approved company a different method of determining the base level of employment that would yield a more equitable result for the approved company, the Commonwealth, local jurisdictions, and the qualified statewide employees.

(4) To become eligible for inducements, the approved company shall create and maintain above the base level of employment in the Commonwealth, an increase at the site of the project of at least ten (10) new full-time qualified employees.

(5) The approved company shall continue to pay to the Commonwealth, on an annualized basis during the term of the ***tax incentive***[~~financing~~] agreement or service and technology agreement, as applicable, the base level of income tax, adjusted on an annual basis to reflect changes in the consumer price index. The excess income tax owed may be offset by the

income tax credit provided in KRS 154.23-050.

(6) If any approved company expands in a qualified zone because of an increase in business or because of the commencement of a new line of business, it may be eligible, at the discretion of the authority, to negotiate a separate, additional ***tax incentive***[~~financing~~] agreement or service and technology agreement to cover the expanded business under the same conditions as authorized for an expansion in this section.

Section 31. KRS 154.23-055 is amended to read as follows:

(1) If the local jurisdiction in which the economic development project is to be located, approves the assessment in accordance with subsection (8) of this section, then an approved company engaged in either manufacturing or service or technology activities may require each qualified statewide employee, as a condition to employment, to agree to pay ***an***[~~a job development~~] assessment[~~ fee~~] in an amount determined by the percentage of the local occupational license fee, which shall be one-fifth (1/5) of the total[~~ job development~~] assessment[~~ fee~~], plus the Commonwealth's contribution of four-fifths (4/5) of the total[~~ job development~~] assessment[~~ fee~~], but in no event to exceed five percent (5%) of the qualified statewide employee's gross wages exclusive of any noncash benefits; provided that each qualified statewide employee paying the assessment shall be entitled to credits against Kentucky income tax as prescribed in subsection (4) of this section and to credits against the local occupational license fee to the extent of the local occupational license fee collected by the local jurisdiction. This assessment shall be deducted by the approved company from wages it pays to qualified statewide employees.

(2) Notwithstanding subsection (1) of this section, if no local occupational license fee is assessed by any local government in which the project is located, the assessment shall be four percent (4%), all of which shall be contributed by the Commonwealth.

(3) Notwithstanding subsection (1) of this section, if a project is located in only one (1) local government and that local government has a local occupational license fee that is less than one percent (1%) and the local government agrees to forgo all of its local occupational license fee or if a project is located in multiple local governments and the local governments have in the aggregate local occupational license fees that are less than one percent (1%) and the local governments agree to forgo all of their local occupational license fees, then the assessment shall be four percent (4%), all of which shall be contributed by the Commonwealth, plus the percentage of the local occupational license fee or fees, as applicable, that the local government or local governments, as applicable, has or have agreed to forgo.

(4) Each qualified statewide employee required to pay this assessment shall be entitled to certain credits, as follows:

 (a) Credit against the required Kentucky income tax withheld from gross wages under KRS 141.310 equal to the Commonwealth's contribution, but in no event to exceed four percent (4%) of these wages; and

 (b) Credit against the local occupational license fee imposed by any local government in which the project is located in the form of a simultaneous adjustment of the local occupational license fee withheld from gross wages excluding noncash benefits not to exceed one percent (1%) of these wages.

(5) If more than one (1) local government jurisdiction imposes a local occupational license fee and all jurisdictions approve the assessment, then the assessment and employee credit therefor shall be prorated against the local occupational license fees imposed, unless a single local government jurisdiction agrees to forgo receipt of its local occupational license fees in an amount equal to one percent (1%) of the qualified statewide employees' wages excluding noncash benefits, in which case no proration need be made.

(6) No credit, or portion thereof, shall be allowed against any occupational license fee imposed by or dedicated solely to the board of education in a local jurisdiction.

(7) An approved company that collects an assessment shall make its payroll, books, and records available to the authority at its request, and shall provide all documentation pertaining to the assessment as the authority may require.

(8) Before any ***tax incentive***[~~financing~~] agreement or service and technology agreement becomes effective with respect to an assessment, the legislative body of any local government that assesses a local occupational license fee and shall lose revenue as a result of the assessment described in this section shall, by official action, approve the assessment for the benefit of an approved company. However, if a local government does not approve the assessment, then the approved company shall not be permitted to impose the assessment and the qualified statewide employees shall not be permitted to claim credits.

[~~(9) Any assessment of the wages of qualified statewide employees of an approved company engaged in manufacturing activities in connection with their employment at an economic development project in subsection (1) of this section shall permanently lapse as of the date any loans or other financing, as described in KRS 154.23-035, incurred in connection with the economic development project mature or are prepaid in full for an approved company engaged in manufacturing activities or as of any date any lease under KRS 154.23-010(6)(b)4. terminates.~~]

(9)[~~(10)~~] Any assessment of the wages of qualified statewide employees of an approved company engaged in service or technology activities in connection with their employment at an economic development project shall permanently cease at the expiration of the service and technology agreement.

Section 32. KRS 154.24-010 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings in KRS 154.24-010 to 154.24-150:

(1) *"Affiliate" means the following:*

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(2) "Agreement" means *the service and technology*[~~any~~] agreement made pursuant to KRS 154.24-120, between the authority

and an approved company with respect to an economic development project;

(3)[~~(2)~~] "Approved company" means any eligible company seeking to locate an economic development project from outside the Commonwealth into the Commonwealth, or undertaking an economic development project in the Commonwealth for which it is approved pursuant to KRS 154.24-100;

(4)[~~(3)~~] "Approved costs" means fifty percent (50%) of the total of the start-up costs up to a maximum of ten thousand dollars ($10,000) per new full-time job created and to be held by a Kentucky resident subject to the personal income tax of the Commonwealth, plus fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(5)[~~(4)~~] "Assessment" means the "service and technology job creation assessment fee" authorized by KRS 154.24-110;

(6)[~~(5)~~] "Authority" means the Kentucky Economic Development Finance Authority***, as*** created in KRS 154.20-010;

(7) "Average hourly wage" means the most current wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand and eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(8)[~~(6)~~] "Commonwealth" means the Commonwealth of Kentucky;

(9)[~~(7)~~] "Economic development project" or "project" means a service or technology activity conducted by an approved company;

(10)[~~(8)~~] "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in service or technology and meeting the standards promulgated by the authority in accordance with KRS Chapter 13A;

(11) "Employee benefits" means nonmandated costs paid by an approved company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(12)[~~(9)~~] "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(13) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state tax imposed by KRS 141.020;

(14)[~~(10)~~] "In lieu of credits" means a local government appropriation to the extent permitted by law, or other form of local government grant or service benefit, directly related to the economic development project and in an amount equal to one percent (1%) of employees' gross wages, exclusive of any noncash benefits provided to an employee, or the provision by a local government of an in-kind contribution directly related to the economic development project and in an amount equal to one half (1/2) of the rent for the duration of the agreement;

(15)[~~(11)~~] "Inducements" means the income tax credits allowed and the assessment authorized by KRS 154.24-110, which are intended to induce companies engaged in service and technology industries to locate or expand in the Commonwealth;

(16)[~~(12)~~] "Person" means an individual, sole proprietorship, partnership, registered limited liability partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation, any instrumentality, division, political subdivision, district, court, agency, or department thereof;

(17)[~~(13)~~] "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(18)[~~(14)~~] "Relocation costs" means the identified expenditures by the company for moving costs, separation costs, and any other expenditures substantiated by the company which directly related to the move from an existing location outside of Kentucky to locations approved by the authority;

(19)[~~(15)~~] "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved activity for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved activity for which the inducement has been granted as determined by the authority using criteria which is customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized;

(c) Rent shall include the customary cost of occupancy including, but not limited to, property taxes, heating and air-conditioning, electricity, water, sewer, and insurance;

(20)[~~(16)~~] "Service or technology" means any activity involving the performance of work not otherwise classified by division, including successor divisions of agriculture, forestry and fishing, mining, construction, and manufacturing, in accordance with the "Standard Industrial Classification Manual," as revised by the United States Office of Management and Budget from time to time, or any successor publication. A company otherwise engaged in an ineligible activity may operate a service and technology activity in a separate division and, with the approval of the authority and subject to the record keeping requirements established by the authority, the service and technology activity may be deemed an eligible activity; and

(21)[~~(17)~~] "Start-up costs" means the ***acquisition*** cost of furnishing and equipping the building for ordinary business functions, including computers,[~~ nonrecurring costs of fixed telecommunication equipment,~~] furnishings, office equipment,[~~ and~~] relocation costs***, and nonrecurring costs of fixed telecommunication equipment*** as verified and approved by the authority in accordance with KRS 154.24-130.

Section 33. KRS 154.24-090 is amended to read as follows:

The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A, regarding the approval of eligible companies and economic development projects conducted by those companies. The criteria for approval of eligible companies and economic development projects shall include, but not be limited to, the following criteria:

(1) A determination by the authority that more than seventy-five percent (75%) of services provided by the eligible company from the proposed project shall be provided for persons located outside the Commonwealth during each year of the period during which it receives inducements as authorized in KRS 154.24-110;

(2) The economic development project shall result in the creation by the eligible company of a minimum of ***fifteen (15)***[~~twenty-five (25)~~] new full-time jobs for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth ***at the activation date which shall occur*** within one (1) year of the date of the final resolution authorizing the economic development project. The authority may extend this one (1) year period upon the written application of an eligible company requesting an extension;

(3) (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:

1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or

2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.

(b) If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. In addition to the base hourly wages, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wages; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wages, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wages through increased hourly wages combined with employee benefits;

(4)[~~(3)~~] Written evidence that:

(a) Approval of the economic development project and the resulting inducements to be offered are essential to the creation of new jobs in the Commonwealth by an eligible company in connection with its economic development project; and

(b) No significant number of existing jobs in the Commonwealth will be lost, or adversely affected, due to the designation of an eligible company as an approved company, and to the approval of the eligible company's economic development project; and

(5)[~~(4)~~] That the economic development project could reasonably and efficiently locate outside of the Commonwealth and, without the inducements offered by the authority, the eligible company would likely locate outside the state.

Section 34. KRS 154.24-110 is amended to read as follows:

(1) The approved company shall be entitled to an income tax credit equal to one hundred percent (100%) of the income tax that would otherwise be due to the Commonwealth by the approved company attributable to the economic development project, as limited by the provisions of this section and KRS 154.24-130. The amount of the approved company's income that is attributable to the economic development project shall be determined under KRS 141.407.

(a) The income tax credit allowed to the approved company shall be subtracted from the approved cost balance in the fiscal year of the approved company for which the tax return of the approved company is filed; and

(b) By October 1 of each year, the Revenue Cabinet of the Commonwealth shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year, and assessments taken by approved companies with respect to their economic development projects during the prior calendar year under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits and assessments equal to its total inducements.

(2) The approved company ***or, with the authority's consent, an affiliate of the approved company*** may require each employee, subject to state tax imposed by KRS 141.020, as a condition of employment, to agree to pay a service and technology job creation assessment fee up to five percent (5%) of the gross wages exclusive of any noncash benefits provided to an employee for each employee whose job has been deemed by the authority to be created as a result of the economic development project, provided that the service and technology job creation assessment fee shall not exceed the amount determined in accordance with KRS 154.24-150(5) if the circumstances in that subsection apply. Where a person is already employed by the approved company at a site other than the site of the economic development project and where that employee is subject to state tax imposed by KRS 141.020, the employee's job shall be deemed to have been created when the employee is transferred to the site of the economic development project, provided that the employee's existing job is filled with a new employee.

(a) Each employee paying the assessment shall be entitled to a credit against his Kentucky income tax required to be withheld under KRS 141.310 equal to four-fifths (4/5) of the assessment;

(b) If the assessment has been approved by the local jurisdiction as provided in KRS 154.24-150, each employee paying the assessment also shall be entitled, in the local jurisdiction in which the economic development project is located, to a credit against his local occupational license fee in the form of a simultaneous adjustment of his local occupational license fee withholding equal to one-fifth (1/5) of the assessment. If more than one (1) local tax is incurred, the one-fifth (1/5) assessment shall be prorated proportionately among the taxes unless one (1) local jurisdiction agrees to forgo the receipt of these taxes in an amount equal to the one-fifth (1/5) assessment, in which case no proration need be made;

(c) If an approved company elects to impose the assessment as a condition of employment, it shall be authorized to deduct the assessment from each payment of wages to the employee;

(d) No credit, or portion thereof, shall be allowed against any occupational license fee imposed by or dedicated solely to the board of education in a local jurisdiction;

(e) The approved company collecting an assessment shall make its payroll, books, and records available to the authority when the authority shall request, and shall file with the authority documentation pertaining to the assessment as the authority may require; and

(f) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project shall permanently cease at the expiration of the agreement.

(3) Notwithstanding subsection (2) of this section, if a local government in which the project is located has a local occupational license fee that is less than one percent (1%) and agrees to forgo all of its local occupational license fee, then the assessment shall be four percent (4%), all of which shall be contributed by the Commonwealth, plus the percentage of the local occupational license fee that the local government has agreed to forgo. Each employee paying the assessment under this subsection shall be entitled to a credit against Kentucky income tax, under KRS 141.350, equal to four percent (4%) and a credit against the local occupational license fee equal to the local occupational license fee that the local jurisdiction has agreed to forgo.

Section 35. KRS 154.24-120 is amended to read as follows:

Before any approved company is granted inducements as prescribed in KRS 154.24-010 to 154.24-150, a service and technology agreement with respect to the company's economic development project shall be entered into between the authority and the approved company. The terms and provisions of the agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(1) The term of an agreement shall not be longer than ten (10) years from the activation date established by the approved company. The activation date shall be any time within a one (1) year period after the date of final approval of the agreement by the authority. In order to implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, the employees, and the affected local ***jurisdictions***[~~jurisdiction~~], if any, of the activation date on which implementation of the inducements authorized in the agreement shall occur.

(2) The agreement shall include:

(a) A description of the authorized inducements to be used by the approved company;

(b) A provision that, if the total number of full-time employees at the site of the economic development project who are residents of the Commonwealth and[~~ who are~~] subject to the Kentucky income tax is less than ***fifteen (15)***[~~twenty five (25)~~], or in the case of an existing Kentucky business the approved company fails to maintain the increase of at least ***fifteen (15)***[~~twenty five (25)~~] full-time employees who are residents of the Commonwealth and[~~ who are~~] subject to the Kentucky income tax, the authorized inducements shall be suspended until the number of full-time employees at the site of the economic development project who are residents of the Commonwealth and[~~ who are~~] subject to the Kentucky income tax equals or exceeds ***fifteen (15)***[~~twenty five (25)~~]; or in the case of an existing Kentucky business until the maintenance requirement of subsection (4) of KRS 154.24-140 is satisfied;

(c) A provision that, if seventy-five percent (75%) or less of services provided by the approved company from the economic development project should be provided to persons located outside of the Commonwealth during any fiscal year of the approved company as prescribed in KRS 154.24-090, the authorized inducements shall be suspended until the percentage of these services again exceeds seventy-five percent (75%) for a full fiscal year of the approved company; and

(d) A provision that neither income tax credits nor assessments are assignable without written consent by the authority.

Section 36. KRS 154.24-140 is amended to read as follows:

(1) If an eligible company operates an existing service and technology business in Kentucky, and wishes to expand that business within the Commonwealth, the eligible company may submit an application to the authority to become an approved company and eligible for the inducements offered in KRS 154.24-010 to 154.24-150.

(2) If an existing business becomes an approved company, the authority shall determine a base level of employment, a base level of state income tax liability, and a base level of services of the approved company for determining eligible credits in remaining years of the approved company's project period. The base level shall be determined by taking into consideration any seasonal fluctuations or aberrations of employment levels over a preceding three (3) year period. Notwithstanding the determination of a base level of employment, no employee of the existing business who is an employee of such business prior to the date of the preliminary resolution of the authority as prescribed in KRS 154.24-100 shall be subject to assessment.

(3) The authority shall identify, by name, all of the existing employees engaged in the service and technology activity, and these employees shall be exempt from the assessment. If any of these employees cease working in the activity, another employee shall be added to the base level of employment, based on the earliest date of entry into the work force, and he shall be exempt from the assessment. The authority may negotiate with the approved company a different method of determining the base level of employment which would yield a more equitable result for the approved company, the Commonwealth, local jurisdictions, and the employees.

(4) To become eligible for inducements, the approved company shall create and maintain above the base level of employment an increase at the site of the economic development project of at least ***fifteen (15)***[~~twenty-five (25)~~] full-time employees who are residents of the Commonwealth***,***[~~ and who are~~] subject to the Kentucky income tax.

(5) The approved company shall continue to pay to the Commonwealth, on an annualized basis during the term of the agreement, the base level of income tax, adjusted on an annual basis to reflect changes in the consumers price index. Any excess income tax owed may be taken as a credit.

(6) If any approved company expands because of an increase in business or because of the commencement of a new line of business, it shall be eligible, at the discretion of the authority, to negotiate a separate and additional agreement to cover the expanded business under the same conditions as authorized for expansion in this section.

Section 37. KRS 154.28-010 is amended to read as follows:

As used in KRS 154.28-010 to 154.28-100, unless the context clearly indicates otherwise:

(1) ***"Activation date" means a date selected by an approved company in the agreement at any time within the two (2) year period after the date of final approval of the agreement by the authority;***

(2) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more ***chains***[~~claims~~] of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing such voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation: S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended.

(3)[~~(2)~~] "Agreement" means ***the tax incentive***[~~an~~] agreement entered into, pursuant to KRS 154.28-090, ***between***[~~on behalf of~~] the authority and an approved company with respect to an economic development project;

(4)[~~(3)~~] "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

[~~(4) "Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal;~~]

(5) "Approved company" means any eligible company, approved by the authority pursuant to KRS 154.28-080, requiring an economic development project;

(6) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, rehabilitation, and installation of an economic development project;

(b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, rehabilitation, and installation of an economic project which is not paid by the vendor, supplier, deliverymen, contractors, or otherwise else provided;

(c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation, and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, rehabilitation, and installation of an economic development project;

(d) All costs which shall be required to be paid under the terms of any contract for the acquisition, construction, rehabilitation, and installation of an economic development project;

(e) All costs which shall be required for the installation of utilities such as water, sewer, sewer treatment, gas, electricity, communications, railroads, and similar facilities, and including offsite construction of the facilities paid for by the approved company; and

(f) All other costs comparable to those described above;

(7) "Assessment" means the job development assessment fee authorized by this section to KRS 154.28-100;

(8) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;

(9) ***"Average hourly wage" means the most current wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand and eighty (2,080) hour work year for the following sectors:***

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(10) "Commonwealth" means the Commonwealth of Kentucky;

(11)[~~(10)~~] (a) "Economic development project" or "project" means and includes:

1. The acquisition of ownership in any real estate by the approved manufacturing[~~, electric generation,~~] or agribusiness company or its affiliate;

2. The present ownership of real estate by the approved manufacturing[~~, electric generation,~~] or agribusiness company or its affiliate; ***or***

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved company pursuant to a ground lease having a term of sixty (60) years or more[~~; or~~

~~4. The new construction of an electric generation facility in a coal producing county. A coal producing county shall mean a county in the Commonwealth of Kentucky that has produced coal upon which the tax imposed under KRS 143.020 was paid at any time~~].

(b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) of this subsection, the construction, installation, equipping, and rehabilitating of improvements, including fixtures and equipment directly involved in the manufacturing process, and facilities necessary or desirable for improvement of the real estate shall include: surveys, site tests, and inspections; subsurface site work and excavation; removal of structures, roadways, cemeteries, and other site obstructions; filling, grading, provision of drainage, and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; offsite construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities or agribusiness operations on the real estate for the use of the approved company or its affiliates for manufacturing or agribusiness operational purposes. Pursuant to paragraphs (a)3. and (b) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-100. An economic development project shall include the equipping of a facility with equipment but, for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-090, only to the extent of ten thousand dollars ($10,000) per job created by and maintained at the economic development project;

(12)[~~(11)~~] "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, trust, or any other entity engaged in manufacturing[~~, electric generation,~~] or agribusiness operations;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(K) or similar plans;

(14) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(15)[~~(12)~~] "Inducement" means the assessment ***or***[~~and~~] the Kentucky income tax credit as set forth in KRS 154.28-090;

(16)[~~(13)~~] "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property, and any activity functionally related to it, together with storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals; and

(17)[~~(14)~~] "State agency" shall have the meaning assigned to the term in KRS 56.440(8).

Section 38. KRS 154.28-080 is amended to read as follows:

(1) The authority shall promulgate standards for the determination and approval of eligible companies and their economic development projects in accordance with KRS Chapter 13A.

(2) The standards for approval of eligible companies and economic development projects shall include, but not be limited to: the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to the residents of the Commonwealth; and the likelihood of the economic success of the economic development project.

(3) The economic development project shall involve a minimum investment of one hundred thousand dollars ($100,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final resolution authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development projects for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension.

(4) ***(a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:***

1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or

2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken;

(b) If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. In addition to the applicable base hourly wage calculated above, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits;

(5) No economic development project which will result in the replacement of a manufacturing[~~, electric generation,~~] or agribusiness facility existing within the Commonwealth shall be approved by the authority; however, the authority may approve an economic development project that:

(a) Rehabilitates a manufacturing[~~, electric generation,~~] or agribusiness facility:

1. Which has not been in operation for a period of ninety (90) or more consecutive days; or

2. ***For which the current occupant of the facility has published a notice of closure so long as the eligible company intending to acquire the facility is not an affiliate of the current occupant; or***

3. To which the title[~~ to which~~] is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;

(b) Replaces a manufacturing or ***agribusiness***[~~electric generation~~] facility existing in the Commonwealth:

1. ***To which*** the title[~~ to which~~] shall have been taken under the exercise of the power of eminent domain, or ***to which*** the title[~~ to which~~] shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

(c) Replaces an existing manufacturing or ***agribusiness***[~~electric generation~~] facility located in the same[~~ qualified~~] county that cannot be expanded due to the unavailability of real estate at or adjacent to the manufacturing or ***agribusiness***[~~electric generation~~] facility to be replaced. Any economic development project satisfying the requirements of this subsection shall be eligible only for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing or ***agribusiness***[~~electric generation~~] facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority that results in a lease abandonment or lease termination by the eligible company without the consent of the lessor.

(6)[~~(5)~~] With respect to each eligible company making an application to the authority for inducements, and with respect to these economic development projects described in the application which do not involve an expansion, the authority shall make inquiries and request materials of the applicant, including, but not limited to, written evidence that except for the receipt of inducements authorized by KRS 154.28-015 to 154.28-090 and KRS 141.400, the eligible company will not locate its economic development project within the Commonwealth. Upon the review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project.

(7)[~~(6)~~] After a diligent review of the relevant materials and completion of its inquiries, the authority, by resolution of its board of directors, may designate an eligible company to be an approved company.

(8)[~~(7)~~] All meetings of the board of directors of the authority shall be held in accordance with KRS 61.805 to 61.850. The board of directors of the authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

Section 39. KRS 154.28-090 is amended to read as follows:

[~~(1)~~]The authority, upon adoption of an authorizing resolution, may enter into, with any approved company, *an*[~~a financing~~] agreement with respect to its economic development project. The terms and provisions of each agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(1) The agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.

(2) The approved company shall expend the authorized approved costs within three (3) years of the date of the final approval by the authority.

(3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.

(4) The agreement shall include the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or ten (10) years from the activation date. To implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, and the approved company's employees of the activation date on which implementation of the inducements authorized in the agreement shall occur. The activation date shall be the time when the maximum dollar value of equipment that constitutes a portion of the economic development project under subsection (11) of Section 37 of this Act shall be determined. If the approved company does not satisfy the minimum investment and minimum employment requirements of subsection (3) of Section 38 of this Act by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the ten (10) year period for the term of the agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of subsection (3) of Section 38 of this Act within two (2) years from the date of final approval of the agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(5) The approved company shall comply with the wage criteria set forth in subsection (4) of Section 38 of this Act and provide documentation in connection with wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.

(6) The approved company may be permitted one of the following inducements during the term of the agreement and shall select the applicable inducement at the time of final approval by the authority:

(a) A one hundred percent (100%) credit against the Kentucky income tax that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.400, to the Commonwealth by the approved company on the income of the approved company generated by or arising from the economic development project; or

(b) The aggregate assessments pursuant to Section 40 of this Act withheld by the approved company each year.

(7) Either the total income tax credit or assessments may not exceed authorized cumulative approved costs paid by the approved company in the three (3) year period commencing with the date of final approval.

(8) If the approved company elects to use the income tax credit, the income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042 on the Kentucky taxable income generated by or arising from the economic development project.

(9) The agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(10) The agreement shall provide that if an approved company fails to comply with its obligations under the agreement then the authority shall have the right, at its option, to:

(a) Suspend either the income tax credits or assessments available to the approved company;

(b) Pursue any remedy provided under the agreement, including termination thereof; and

(c) Pursue any other remedy at law to which it may be entitled.

(11) All remedies provided in subsection (10) of this section shall be deemed to be cumulative.

[~~(a) The term of an agreement, which shall commence on the date of the agreement, shall not be longer than the earlier of the following:~~

~~1. The maturity of loans or other financing incurred in connection with the economic development project, except that the agreement may be terminated upon the earlier prepayment of loans or other financing incurred in connection with the economic development project; or~~

~~2. Ten (10) years from the activation date of the original agreement.~~

~~(b) All proceeds of any loan or other financing incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic development project are not fully expended within the three (3) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.~~

~~(c) In consideration for the execution and during the term of the agreement, the approved company shall be permitted either of the following during the term of the agreement:~~

~~1. A credit against Kentucky income tax imposed by KRS 141.020 or 141.040 on the income of the approved company generated by or arising out of the economic development project as determined by KRS 141.400; or~~

~~2. The aggregate assessment withheld by the approved company in each year.~~

~~(2) The agreement shall provide that:~~

~~(a) 1. The assessments, if applicable, shall not exceed the annual payments of the total financing agreement by the approved company in any year; however, to the extent that the financing agreement annual payments exceed assessments collected in any year, the excess payment may be recouped from assessment collections in succeeding years.~~

~~2. If in any fiscal year of the approved company during which the financing agreement is in effect the total assessments collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessments collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax withholdings from employees' wages for the remainder of that fiscal year.~~

~~(b) The Kentucky income tax credit, in any fiscal year of the approved company, shall not exceed the total debt service paid during the same fiscal year with respect to the loans or other financing incurred in connection with the economic development project; however, to the extent that annual debt service payments exceed the annual income tax credits in any year, the excess debt service payments may be recouped from excess tax credits in succeeding years.~~

~~(c) The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed under KRS 141.042.~~

~~(d) The agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.~~

~~(e) An approved company shall require of any lender to an approved company funding the loans or other financing incurred in connection with the economic development project, written evidence of all annual debt service to the lender, which evidence shall be provided in writing to the authority within forty-five (45) days following the close of each fiscal year of the financing agreement.~~

~~(f) If an approved company fails to comply with its respective obligations under the financing agreement, the lender to an approved company fails to comply with the provisions of subsection (2)(e) of this section, or an approved company is declared in default under the loans or other financing incurred in connection with the economic development project, the authority, or any of its assignees, may, at its option:~~

~~1. Suspend the availability of the income tax credits or job development assessment fees, as applicable;~~

~~2. Pursue any remedy provided under the financing agreement, including termination of the agreement; and~~

~~3. Pursue any other remedy at law to which it may appear entitled.~~

~~(3) All remedies provided in subsection (2)(f) of this section shall be deemed cumulative.~~

~~(4) Pursuant to this section, the activation date shall be established by the approved company in the financing agreement which shall be at any time in a two (2) year period after the date of final approval of the financing agreement by the authority. To implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, and the approved company's employees of the activation date on which implementation of the inducements authorized in the financing agreement shall occur. The activation date shall be the time when the maximum dollar value of equipment that constitutes a portion of an economic development project under KRS 154.28-010(10) shall be determined. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) by the activation date, the approved company will not be entitled to receive inducements pursuant to this~~

~~subchapter until the approved company satisfies these requirements; however, the ten (10) year period for the term of the financing agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) within two (2) years from the date of final approval of the financing agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.~~]

(12)[~~(5)~~] By October 1 of each year, the Revenue Cabinet shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year and assessments taken during the prior calendar year by approved companies with respect to their economic ***development***[~~revitalization~~] projects under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits ***or***[~~ and~~] assessments equal to its total inducements.

Section 40. KRS 154.28-110 is amended to read as follows:

(1) The approved company ***or, with the authority's consent, an affiliate of the approved company*** may require, in lieu of receiving the income tax credits described in KRS 154.28-090, that each employee subject to state tax imposed by KRS 141.020, as a condition of employment, agree to pay ***an***[~~a job development~~] assessment[~~ fee~~], equal to three percent (3%) of the gross wages of each employee whose job was created as a result of the economic development project, for the purpose of ***recovering authorized approved costs as set forth in the agreement***[~~retiring the loans or other financing, as described in KRS 154.28-090, incurred in connection with the economic development project~~].

(2) Each employee so assessed shall be entitled to a credit against Kentucky income tax withheld as provided by KRS 141.310 and 141.350 equal to the[~~ job development~~] assessment[~~ fee~~] withheld from his or her wages during the calendar year.

(3) If an approved company shall elect to impose the assessment as a condition of employment, it shall be authorized to deduct the assessment from each paycheck of each employee.

(4) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the authority at such reasonable times as the authority shall request and shall file with the authority documentation respecting the assessment as the authority may require.

[~~(5) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project pursuant to subsection (1) of this section shall permanently lapse on the date any loans or other financing, as described in KRS 154.28-090, incurred in connection with the economic development project mature or are prepaid in full.~~]

SECTION 41. A NEW SECTION OF SUBCHAPTER 28 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

If the authority adopts a preliminary resolution designating an eligible company as an approved company and preliminarily approving the project of the eligible company as an economic development project prior to July 15, 2002, and the authority adopts a final resolution approving the eligible company as an approved company and the project of the eligible company as an economic development project, and the authority and the eligible company enter into an agreement no later than June 30, 2003, then the approved company thereafter shall be subject to subchapter 28 of KRS Chapter 154 effective prior to July 15, 2002.

Section 42. KRS 141.310 is amended to read as follows:

(1) Every employer making payment of wages on or after January 1, 1971, shall deduct and withhold upon the wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.

(2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which the wages are paid.

(3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of wages by the employer during the calendar year, or the date of commencement of employment with the employer during the year, or January 1 of the year, whichever is the later.

(4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.

(5) The tables mentioned in subsection (1) of this section take into consideration the deductible federal income tax. If Congress changes substantially the federal income tax, the cabinet shall make the change in these tables necessary to compensate for any increase or decrease in the deductible federal income tax.

(6) The cabinet may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation so permitted produces substantially the same result set forth in the tables authorized by KRS 141.370. Prior approval of the calculation shall be secured from the cabinet at least thirty (30) days before the first payroll period for which it is to be used.

(7) The cabinet may, by regulations, authorize employers:

(a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;

(b) To determine the amount to be deducted and withheld upon each payment of wages to the employee during the quarter as if the appropriate average of the wages estimated constituted the actual wages paid; and

(c) To deduct and withhold upon any payment of wages to the employee during the quarter the amount necessary to adjust the amount actually deducted and withheld upon the wages of the employee during the quarter to the amount that would be required to be deducted and withheld during the quarter if the payroll period of the employee was quarterly.

(8) The cabinet may provide by regulation, under the conditions and to the extent it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employee agree to the additional withholding. The additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.

(9) Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.24-110 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee or the Commonwealth's contribution of KRS 154.24-110(3) applies. If the provisions in KRS 154.24-150(3) or (4) apply, the offset, the offset shall be one hundred percent (100%) of the assessment.

(10) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees ***an***[~~the job development~~] assessment[~~ fee~~] provided in KRS 154.22-070 ***or***[~~,~~] KRS 154.28-110[~~, or KRS 65.6851~~] may offset the fee against the Kentucky income tax required to be withheld from the employee under this section.

(11) Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.26-100 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be two-thirds (2/3) of the amount of the assessment fee withheld from the employee, or if the agreement under KRS 154.26-090(1)(d)2.b. is consummated, the offset shall be four-fifths (4/5) of the assessment fee.

(12) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job development assessment fee provided in KRS 154.23-055 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be equal to the Commonwealth's contribution as determined by KRS 154.23-055(1) to (3).

(13) Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the cabinet. The bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the cabinet, but shall not exceed fifty thousand dollars ($50,000).

(14) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of an employer's business until the bond is posted or the tax required to be withheld is paid or both. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the defendant.

Section 43. The following KRS sections are repealed:

65.700 Definitions for KRS 65.700 and 65.703.

65.703 Authorization for grant contracts with certain agencies for release of portion of tax increment -- Procedures -- Evaluation.

154.22-090 Exemption of approved company from application of certain statutes.

154.28-120 Application to approved companies of KRS 154.28-010, 154.28-080, 154.28-090, and 154.28-110.

The Committee on Agriculture and Small Business reported **HB 319**, with Committee Substitute and Committee Amendment attached thereto, **HB 654**, with Committee Amendment attached thereto, and **HB 682**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 319, AN ACT related to economic development through the state purchase of perishables.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 and Sections 4 and 5 of this Act:

(1) "Kentucky-grown" means an agricultural product that is produced, cultivated, raised, caught, or harvested in Kentucky.

(2) "Perishables" means fresh produce, fresh seafood, fresh eggs, freshwater fish, or fresh meat products.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

If purchasing perishables, state agencies, as defined in KRS 45A.505, shall purchase Kentucky-grown perishables if available.

SECTION 3. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

Before a state agency may purchase perishables, the prospective vendor shall provide to the purchasing officer written certification that the perishables under consideration for purchase meet the definition of Kentucky-grown perishables, unless the purchasing officer determines that those perishables are not available as Kentucky-grown.

Section 4. KRS 45A.035 is amended to read as follows:

(1) The secretary of the Finance and Administration Cabinet shall have power and authority over, and may, except as otherwise expressly provided in this code, adopt regulations pursuant to KRS Chapter 13A and consistent with this code governing the purchasing, management, and control of any and all supplies, services, and construction, and other items required to be purchased by the Commonwealth. The secretary shall consider and decide matters of policy with regard to state procurement. The secretary shall have the power of review with respect to the implementation of regulations and policy determinations.

(2) Regulations shall be adopted governing the following:

(a) Conditions and procedures for delegations of purchasing authority;

(b) Prequalification, suspension, debarment, and reinstatement of prospective bidders;

(c) Small purchase procedures;

(d) Conditions and procedures for the purchase of[~~ perishables and~~] items for resale;

(e) ***Conditions and procedures for the purchase of perishables in accordance with Sections 1 to 3 of this Act;***

(f) Conditions and procedures for the use of source selection methods authorized by this code, including emergency purchases;

(g)[~~(f)~~] Opening and rejection of bids or offers, consideration of alternate bids, and waiver of informalities in offers;

(h)[~~(g)~~] Confidentiality of technical data and trade secrets information submitted by actual or prospective bidders or offerors;

(i)[~~(h)~~] Partial, progressive, and multiple awards;

(j)[~~(i)~~] Supervision of storerooms and inventories, including determination of appropriate stock levels and the management, transfer, sale, or other disposal of state-owned property;

(k)[~~(j)~~] Definitions and classes of contractual services and procedures for acquiring them.

The secretary may adopt such other regulations as deemed advisable to carry out the purposes of this code.

Section 5. KRS 45A.095 is amended to read as follows:

(1) A contract may be made by noncompetitive negotiation only for sole source purchases, or when competition is not feasible, as determined by the purchasing officer in writing prior to award, under administrative regulations promulgated by the secretary of the Finance and Administration Cabinet or the governing boards of universities operating under KRS Chapter 164A, or when emergency conditions exist. Sole source is a situation in which there is only one (1) known capable supplier of a commodity or service, occasioned by the unique nature of the requirement, the supplier, or market conditions. Insofar as it is practical, no less than three (3) suppliers shall be solicited to submit written or oral quotations whenever it is determined that competitive sealed bidding is not feasible. Award shall be made to the supplier offering the best value. The names of the suppliers submitting quotations and the date and amount of each quotation shall be placed in the procurement file and maintained as a public record. Competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) Where rates are fixed by law or ordinance;

(c) For library books;

(d) For commercial items that are purchased for resale;

(e) For interests in real property;

(f) For visiting speakers, professors, expert witnesses, and performing artists;[~~ and~~]

(g) For personal service contracts executed pursuant to KRS 45A.690 to 45A.725***; and***

(h) For perishables in accordance with Sections 1 to 3 of this Act.

(2) The chief procurement officer, the head of a using agency, or a person authorized in writing as the designee of either officer may make or authorize others to make emergency procurements when an emergency condition exists.

(3) An emergency condition is a situation which creates a threat or impending threat to public health, welfare, or safety such as may arise by reason of fires, floods, tornadoes, other natural or man-caused disasters, epidemics, riots, enemy attack, sabotage, explosion, power failure, energy shortages, transportation emergencies, equipment failures, state or federal legislative mandates, or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction, or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten the functioning of government, the preservation or protection of property,

or the health or safety of any person.

(4) The Finance and Administration Cabinet may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency shall be fully explained, in writing, by the head of the agency for which the purchase is to be made. The explanation shall be approved by the secretary of the Finance and Administration Cabinet and shall include the name of the vendor receiving the contract along with any other price quotations and a written determination for selection of the vendor receiving the contract. This information shall be filed with the record of all such purchases and made available to the public. Where practical, standard specifications shall be followed in making emergency purchases. In any event, every effort should be made to effect a competitively established price for purchases made by the state.

The Committee Substitute to **HB 319** is as follows:

HB 319, AN ACT related to economic development through the state purchase of perishables.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1, 2, 3, and 4 of this Act:

(1) "Agricultural product" means any unprocessed farm product raised or produced as a result of being in the business of "agriculture", as defined by KRS 246.010. "Agricultural product" does not include tobacco.

(2) "Kentucky-grown agricultural product" means any agricultural product raised or produced in Kentucky.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) If purchasing agricultural products, state agencies, as defined by KRS 45A.505, shall give a five percent (5%) preference to vendors that supply Kentucky-grown agricultural products over vendors that supply agricultural products that are raised or produced outside the United States or its territories. The preference shall be limited to the portion of the bid relating to agricultural products.

(2) If a contract is awarded to a vendor using the preference provided in subsection (1) of this section, the vendor shall be required to participate in the logo or labeling program established by KRS 260.015.

(3) If a contract is awarded to a vendor that supplies agricultural products that are raised or produced outside the United States or its territories, the vendor shall be required to identify the country in which the agricultural product was raised or produced and clearly label that information on any containers or packages holding the product.

Section 3. KRS 45A.035 is amended to read as follows:

(1) The secretary of the Finance and Administration Cabinet shall have power and authority over, and may, except as otherwise expressly provided in this code, adopt regulations pursuant to KRS Chapter 13A and consistent with this code governing the purchasing, management, and control of any and all supplies, services, and construction, and other items required to be purchased by the Commonwealth. The secretary shall consider and decide matters of policy with regard to state procurement. The secretary shall have the power of review with respect to the implementation of regulations and policy determinations.

(2) Regulations shall be adopted governing the following:

(a) Conditions and procedures for delegations of purchasing authority;

(b) Prequalification, suspension, debarment, and reinstatement of prospective bidders;

(c) Small purchase procedures;

(d) Conditions and procedures for the purchase of[~~ perishables and~~] items for resale;

(e) ***Conditions and procedures for the purchase of agricultural products in accordance with Section 2 of this Act;***

(f) Conditions and procedures for the use of source selection methods authorized by this code, including emergency purchases;

(g)[~~(f)~~] Opening and rejection of bids or offers, consideration of alternate bids, and waiver of informalities in offers;

(h)[~~(g)~~] Confidentiality of technical data and trade secrets information submitted by actual or prospective bidders or offerors;

(i)[~~(h)~~] Partial, progressive, and multiple awards;

(j)[~~(i)~~] Supervision of storerooms and inventories, including determination of appropriate stock levels and the management, transfer, sale, or other disposal of state-owned property;

(k)[~~(j)~~] Definitions and classes of contractual services and procedures for acquiring them.

The secretary may adopt such other regulations as deemed advisable to carry out the purposes of this code.

Section 4. KRS 45A.095 is amended to read as follows:

(1) A contract may be made by noncompetitive negotiation only for sole source purchases, or when competition is not

feasible, as determined by the purchasing officer in writing prior to award, under administrative regulations promulgated by the secretary of the Finance and Administration Cabinet or the governing boards of universities operating under KRS Chapter 164A, or when emergency conditions exist. Sole source is a situation in which there is only one (1) known capable supplier of a commodity or service, occasioned by the unique nature of the requirement, the supplier, or market conditions. Insofar as it is practical, no less than three (3) suppliers shall be solicited to submit written or oral quotations whenever it is determined that competitive sealed bidding is not feasible. Award shall be made to the supplier offering the best value. The names of the suppliers submitting quotations and the date and amount of each quotation shall be placed in the procurement file and maintained as a public record. Competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) Where rates are fixed by law or ordinance;

(c) For library books;

(d) For commercial items that are purchased for resale;

(e) For interests in real property;

(f) For visiting speakers, professors, expert witnesses, and performing artists;~~[and]~~

(g) For personal service contracts executed pursuant to KRS 45A.690 to 45A.725***; and***

(h) For agricultural products in accordance with Section 2 of this Act.

(2) The chief procurement officer, the head of a using agency, or a person authorized in writing as the designee of either officer may make or authorize others to make emergency procurements when an emergency condition exists.

(3) An emergency condition is a situation which creates a threat or impending threat to public health, welfare, or safety such as may arise by reason of fires, floods, tornadoes, other natural or man-caused disasters, epidemics, riots, enemy attack, sabotage, explosion, power failure, energy shortages, transportation emergencies, equipment failures, state or federal legislative mandates, or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction, or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten the functioning of government, the preservation or protection of property, or the health or safety of any person.

(4) The Finance and Administration Cabinet may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency shall be fully explained, in writing, by the head of the agency for which the purchase is to be made. The explanation shall be approved by the secretary of the Finance and Administration Cabinet and shall include the name of the vendor receiving the contract along with any other price quotations and a written determination for selection of the vendor receiving the contract. This information shall be filed with the record of all such purchases and made available to the public. Where practical, standard specifications shall be followed in making emergency purchases. In any event, every effort should be made to effect a competitively established price for purchases made by the state.

The Committee Amendment No. 1 Title to **HB 319** is as follows:

Amend the title to read as follows: "AN ACT relating to economic development through the state purchase of agricultural products.".

HB 654, AN ACT relating to the promotion of agritourism.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The Department of Agriculture, in conjunction with the Tourism Development Cabinet, shall create an interagency Office of Agritourism to be housed in the Department of Agriculture. As used in Sections 1 to 6 of this Act, agritourism means the act of visiting a working-farm or any agricultural, horticultural, or agribusiness operation for the purpose of enjoyment, education, or active involvement in the activities of the farm or operation. It shall be the purpose of the Office of Agritourism to:

(1) Promote agritourism in Kentucky to potential visitors, both national and international; and

(2) Assist in sustaining the viability and growth of the agritourism industry in Kentucky.

SECTION 2. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The Office of Agritourism shall perform all duties necessary to carry out the purposes of Sections 1 to 6 of this Act, including but not limited to:

(1) Within the first year of its creation, developing a statewide master plan for implementation of Sections 1 and 2 of this Act. The Office of Agritourism shall report on the plan to the Agritourism Advisory Council at the request of the council;

(2) Developing a unified Kentucky agritourism marketing strategy between the Department of Agriculture and the Tourism Development Cabinet to promote Kentucky agritourism. The strategy shall include but not be limited to promotion of Kentucky agritourism through the creation of an agritourism Web site and advertisement through various media outlets;

(3) Coordinating efforts to educate the general public about the importance of Kentucky's agricultural heritage and industry;

(4) Developing regional agritourism development plans for each of the nine (9) tourism regions as follows:

- *(a) Bluegrass;*
- *(b) Cave;*
- *(c) Green River;*
- *(d) Eastern Highlands-North;*
- *(e) Eastern Highlands-South;*
- *(f) Louisville-Lincoln;*
- *(g) Northern Kentucky;*
- *(h) Southern Lakes and Rivers; and*
- *(i) Western Lakes and Rivers;*

(5) Providing support, education, and resource materials for all interested persons, to include but not be limited to existing Kentucky agritourism businesses, displaced tobacco farmers and others engaged in agribusiness within the state, and other Kentuckians with the intent of developing an agritourism business. The agritourism office shall provide this assistance in the following areas, to include but not be limited to:

- *(a) Agritourism opportunities, networks, product development, and entrepreneurship;*
- *(b) Agritourism funding opportunities, including but not limited to grants, loans, and partnerships; and*
- *(c) Insurance and infrastructure concerns of the agritourism industry;*

(6) Working and partnering with federal, state, and local organizations to carry out the purposes of Sections 1 to 6 of this Act;

(7) Reporting to the Agritourism Advisory Council, as created in Section 3 of this Act, annually or at the request of the chair, and in accordance with subsection (1) of this section; and

(8) Considering the recommendations of the Agritourism Advisory Council, in accordance with subsection (2) of Section 4 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

An Agritourism Advisory Council shall be established within the Department of Agriculture to advise and assist the Office of Agritourism. The Agritourism Advisory Council shall be composed of:

(1) One (1) representative from each of the following entities:

- *(a) Department of Agriculture, appointed by the Commissioner of Agriculture;*
- *(b) Tourism Development Cabinet, appointed by the secretary of the cabinet;*
- *(c) Education, Arts, and Humanities Cabinet, appointed by the secretary of the cabinet;*
- *(d) University of Kentucky Cooperative Extension Service;*
- *(e) West Kentucky Corporation;*
- *(f) Kentucky Tourism Council; and*
- *(g) Kentucky Farm Bureau;*

(2) The Governor, or a designee;

(3) Two (2) members of the General Assembly who hold an interest in agriculture, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives; and

(4) Nine (9) representatives of the agribusiness industry with a business interest in agritourism, appointed by the Commissioner of Agriculture from a list of candidates compiled by the tourism regions as set forth in subsection (4) of Section 2 of this Act. Each tourism region shall submit three (3) candidates with a business interest in agritourism who reside within that region, and the Commissioner shall appoint one (1) candidate from each region from those names submitted.

SECTION 4. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The duties of the Agritourism Advisory Council shall include but not be limited to the following:

(1) Review and make recommendations on the development of the statewide master plan, based upon the report from the Office of Agritourism in accordance with subsection (1) of Section 2 of this Act; and

(2) Make recommendations to redirect the duties of the Office of Agritourism as necessary, in keeping with the office's

purposes stated in Section 1 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) Members of the Agritourism Advisory Council shall be appointed for four (4) year terms. Sitting members shall be eligible for reappointment.

(2) The Agritourism Advisory Council shall elect a chair and vice chair from its membership.

(3) The Agritourism Advisory Council shall meet annually or at the request of the chair. The council may take action only at meetings in which a quorum is present. A majority of the members shall constitute a quorum.

(4) In the event of a vacancy, the appropriate appointing entity may appoint a replacement member who shall hold office during the remainder of the term so vacated.

(5) Members of the Agritourism Advisory Council shall serve without compensation.

SECTION 6. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The Commissioner of Agriculture and the secretary of the Tourism Development Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A, as necessary to implement the provisions of Sections 1 to 6 of this Act.

Section 7. Sections 1 to 6 of this Act shall be implemented by the Department of Agriculture and the Tourism Development Cabinet to the extent that grant funds can be secured or existing funds from federal, state, or local agencies are available for the purposes of this Act.

The Committee Amendment No. 1 to **HB 654** is as follows:

On page 3, line 18, delete "*and*"; and in between lines 19 and 20, insert the following:

"*(h) Kentucky Chamber of Commerce; and*

(i) Kentucky Council of Area Development Districts;".

HB 682, AN ACT relating to cigarette sales.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 365.270 is amended to read as follows:

As used in KRS 365.260 to 365.380, unless the context otherwise requires:

(1) "Person" means and includes any individual, firm, association, company, partnership, corporation, joint stock company, club, agency, syndicate, the Commonwealth of Kentucky and any municipal corporation or other political subdivision of this state, trust, receiver, trustee, fiduciary, or conservator.

(2) "Secretary" means the secretary of the Revenue Cabinet of the Commonwealth of Kentucky.

(3) "Cabinet" means the Revenue Cabinet.

(4) "Cigarettes" means and includes any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

(5) "Wholesaler" means any person who sells cigarettes at wholesale or distributes cigarettes to be sold at retail, and includes any manufacturer, distributor, jobber, subjobber as defined in KRS 138.130(11), broker, agent, or other person, whether or not enumerated in this subsection, who sells or distributes cigarettes.

(6) "Retailer" means and includes any person who sells cigarettes in this state to a consumer or to any person for any purpose other than resale.

(7) "Sale" or "sell" means any transfer for consideration or gift.

(8) "Sell at wholesale," "sale at wholesale," and "wholesale sales" mean and include any sale made in the ordinary course of trade or usual conduct of the wholesaler's business to a retailer for the purpose of resale.

(9) "Sell at retail," "sale at retail," or "retail sales" mean and include any sale for consumption or use made in the ordinary course of trade or usual conduct of the seller's business.

(10) "Basic cost of cigarettes" means the invoice cost of cigarettes to the wholesaler or retailer, as the case may be, less all trade discounts, except customary cash discounts, plus the full face value of any stamps or any tax which may be required by any cigarette tax act of this state or political subdivision thereof, now in effect or hereafter enacted, if not already included in the invoice cost of the cigarettes to the wholesaler or retailer, as the case may be.

(11) (a) "Cost to wholesaler" means the basic cost of the cigarettes involved to the wholesaler plus the cost of doing cigarette business by the wholesaler. In determining the cost of doing cigarette business by the wholesaler, the cost of doing business by the wholesaler shall first be determined by applying the standards and methods of accounting regularly employed by him, and includes labor costs, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and

advertising. The cost of doing business by the wholesaler shall then be multiplied by the fraction obtained through dividing the wholesaler's cigarette sales for the preceding six (6) months by the wholesaler's total sales for the same period and the product thereof shall be the cost of doing cigarette business.

(b) In the absence of proof of a lesser or higher cost of doing cigarette business by the wholesaler making the sale, the cost of doing cigarette business by the wholesaler shall be presumed to be two percent (2%) of the basic cost of the cigarettes to the wholesale dealer, plus cartage to the retail outlet, if performed or paid for by the wholesale dealer. Cartage cost, in the absence of proof of a lesser or higher cost, shall be presumed to be three-fourths of one percent (0.75%) of the basic cost of the cigarettes to the wholesaler.

(12) (a) "Cost to the retailer" means the basic cost of cigarettes involved to the retailer plus the cost of doing cigarette business by the retailer. In determining the cost of doing cigarette business by the retailer, the cost of doing business by the retailer shall first be determined by applying the standards and methods of accounting regularly employed by him and includes labor, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the retailer shall then be multiplied by the fraction obtained through dividing the retailer's cigarette sales for the preceding six (6) months by the retailer's total sales for the same period and the product thereof shall be the cost of doing cigarette business.

(b) In the absence of proof of a lesser or higher cost of doing cigarette business by the retailer making the sale, the cost of doing cigarette business by the retailer shall be presumed to be eight percent (8%) of the basic cost of cigarettes to the retailer.

(13) "Cigarette category space" means any portion of space in a store or on the premises as reserved, made available, or identified by a retailer for the display of products, signs, advertising, promotion, or other communication relating to cigarettes.

(14) "Promotion" means and includes any program or means by which:

(a) The effective price paid by a purchaser of cigarettes is reduced from the regular price charged by the retailer when a supplier's promotion is not in effect or applicable; or

(b) Additional cigarettes or other items are offered to the consumer in connection with the purchase of cigarettes.

(15) "Supplier" means any person or entity who directly or indirectly offers to supply, sell, or deliver cigarettes or cigarette advertising, merchandising, or promotions to a cigarette retailer. This shall also mean and include cigarette manufacturer or importers either directly or through agents, representatives, brokers, or any other persons.

SECTION 2. A NEW SECTION OF KRS 365.260 TO 365.380 IS CREATED TO READ AS FOLLOWS:

(1) A cigarette retailer and supplier shall have the right to contract or agree with each other for the retailer to:

(a) Obtain, participate in, and receive payments from a supplier relating to a supplier's cigarette merchandising, advertising, display or promotion programs, whether permanent or temporary;

(b) Be compensated by the supplier for providing space for the merchandising, advertising, display, or promotion of a supplier's products; and

(c) Purchase cigarettes if the contract or agreement does not violate subsection (2) of this section.

(2) Cigarette retail contracts or agreements shall not directly or indirectly:

(a) Require the retailer to allocate:

1. A percentage or fraction of all or any part of the retailer's space available for product display, signage, or advertising or cigarette category space to a supplier for any purpose; or

2. A determined amount of the retailer's space, however expressed, to a supplier in order to receive, participate in, or receive payment under a supplier's promotions; or

(b) Restrict or limit a retailer's:

1. Cigarette category space; or

2. Conduct of or participation in any promotion; or

3. Conduct of or participation in any other program or activity concerning the sale, display, merchandising, promotion, pricing, or advertising, in any manner, of another supplier's products.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 33, HB 86, HB 109, HB 143,** and **HB 279** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:55 p.m.)

Calendar

HB 593, HB 653, HCR 56, HB 418, HJR 93, HB 554, HCR 138, SB 117, HB 100, HB 627, HB 628, HB 644, SB 26, and **SB 70** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 659, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved the adoption of the Committee Substitute to **HB 659**. Agreed.

Representative L. Clark moved that **HB 659**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 21, 2002, roll call on **HB 659** - Appendix.)

HB 659, by way of Committee Substitute, was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 659**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 372, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeWeese moved the adoption of Floor Amendment No. 1 to **HB 372**. Agreed.

Representative Marzian moved that **HB 372**, as amended, be passed.

On the roll call the vote was: **Yeas 91, Nays 3**. (See February 21, 2002, roll call on **HB 372** - Appendix.)

HB 372, as amended, was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 372**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 559 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Horlander moved that **HB 559** be passed.

On the roll call the vote was: **Yeas 94, Nays 2**. (See February 21, 2002, roll call on **HB 559** - Appendix.)

HB 559 was passed and the title agreed to.

Representative Horlander moved that the vote by which **HB 559** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 378 taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Horlander moved that **HB 378** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 21, 2002, roll call on **HB 378** - Appendix.)

HB 378 was passed and the title agreed to.

Representative Horlander moved that the vote by which **HB 378** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 383, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the Committee Substitute to **HB 383**. Agreed.

Representative Lindsay moved that **HB 383**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 89, Nays 9**. (See February 21, 2002, roll call on **HB 383** - Appendix.)

HB 383, by way of Committee Substitute, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 383**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 451 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Simpson moved that **HB 451** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 21, 2002, roll call on **HB 451** - Appendix.)

HB 451 was passed and the title agreed to.

Representative Simpson moved that the vote by which **HB 451** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 595 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Draud moved that **HB 595** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 21, 2002, roll call on **HB 595** - Appendix.)

HB 595 was passed and the title agreed to.

Representative Draud moved that the vote by which **HB 595** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 417, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the Committee Substitute to **HB 417**. Agreed.

Representative Damron moved that **HB 417**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 89, Nays 8**. (See February 21, 2002, roll call on **HB 417** - Appendix.)

HB 417, by way of Committee Substitute, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 417**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 443, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of the Committee Substitute to **HB 443**. Agreed.

Representative Palumbo moved that **HB 443**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 21, 2002, roll call on **HB 443** - Appendix.)

HB 443, by way of Committee Substitute, was passed.

Representative Palumbo moved the adoption of Committee Amendment No. 1 Title to **HB 443**. Agreed.

Representative Palumbo moved that the vote by which **HB 443**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 560, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved the adoption of Floor Amendment No. 1 to **HB 560**. Agreed.

Representative Ballard moved that **HB 560**, as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 3**. (See February 21, 2002, roll call on **HB 560** - Appendix.)

HB 560, as amended, was passed and the title agreed to.

Representative Ballard moved that the vote by which **HB 560**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 45, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of Floor Amendment No. 1 to **SB 45**. Agreed.

Representative Stumbo moved that **SB 45**, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 21, 2002, roll call on **SB 45** - Appendix.)

SB 45, as amended, was passed.

Representative Stumbo moved the adoption of Floor Amendment No. 2 Title to **SB 45**. Agreed.

Representative Stumbo moved that the vote by which **SB 45**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 16, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved the adoption of the Committee Substitute to **HB 16**. Agreed.

Representative Nunn moved that **HB 16**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 21, 2002, roll call on **HB 16** - Appendix.)

HB 16, by way of Committee Substitute, was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 16**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 166, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Comer moved the adoption of the Committee Substitute to **HB 166**. Agreed.

Representative Comer moved that **HB 166**, by way of Committee Substitute, be passed.

Representative Riner moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 166**.

Representative Allen inquired whether Floor Amendment No. 2 the Committee Substitute to **HB 166** was germane.

The Speaker ruled that Floor Amendment No. 2 to the Committee Substitute to **HB 166** was germane.

Representative Riner moved to withdraw Floor Amendment No. 2 to the Committee Substitute to **HB 166**. Agreed.

On the roll call on the passage of **HB 166** by way of Committee Substitute the vote was: **Yeas 96, Nays 2**. (See February 21, 2002, roll call on **HB 166** - Appendix.)

HB 166, by way of Committee Substitute, was passed and the title agreed to.

Representative Comer moved that the vote by which **HB 166**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 69, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Draud moved that **HCR 69** be adopted.

On the roll call the vote was: **Yeas 94, Nays 2**. (See February 21, 2002, roll call on **HCR 69** - Appendix.)

HCR 69 was adopted.

Representative Stumbo moved that the vote by which **HCR 69** was adopted be reconsidered. Agreed.

Representative Stumbo moved that **HCR 69** be placed before the House for passage. Agreed.

Representative Draud moved the adoption of the Committee Substitute to **HCR 69**. Agreed.

Representative Draud moved that **HCR 69**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 96, Nays 1**. (See February 21, 2002, roll call on **HCR 69** - Appendix.)

HCR 69, by way of Committee Substitute was adopted.

Representative Draud moved that the vote by which **HCR 69**, by way of Committee Substitute was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that the rules be suspended for Introductions of Bills and Committee Reports. Agreed.

Representative Hoover moved that the rules be suspended to introduce and act on Resolution. Agreed.

Introduction of Resolutions (Continued)

HR 172, by Representatives Hoover and Stumbo: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Joyce Andree Lefevers Stewart.

Motions, Petitions, and Communications (Continued)

Representative Hoover moved the adoption of the following **HR 172**:

HR 172, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Joyce Andree Lefevers Stewart.

With deepest respect and admiration, we pay homage and tribute to Joyce Andree Lefevers Stewart, and we pause in silent reverence for her soul.

WHEREAS, Joyce Andree Lefevers Stewart was born on November 22, 1935, a native of Molus, Bell County, Kentucky, and longtime resident of Flat Lick, Knox County, Kentucky, and she traversed these earthly bounds on February 20, 2002; and

WHEREAS, Joyce Andree Lefevers Stewart was the loving daughter of Ruby Gregory Lefevers and the late Elmer Lefevers, and she was also preceded in death by her dear father and mother-in-law, James S. Stewart, Sr. and Mary Hammons Stewart; she was the devoted wife of over forty-six years to James S. Stewart, Jr., and she was the adored mother of two sons and daughters-in-law, Representative James S. Stewart III and his wife, Mary Anne of Flat Lick, and David Ray Stewart and his wife, Judy of Louisville, and a loving daughter and son-in-law, Mary Hammons and her husband, Larry of Flat Lick; and she was the proud grandmother of four loving grandchildren, Jennifer Faye Hammons Carey and her husband Brian; Rebecca Jamrae Hammons; James S. Stewart IV, and Mary Jude Stewart; and she was the loving sister of two brothers, Pearl Ray Lefevers and his wife, Robin of Corbin, and David Lanny Lefevers of Flat Lick, and a loving sister, Jennifer Jones and her husband, John E. of Pineville; and she also leaves behind three special nieces, Jonna Jones Knox, Emily Hoskins, and Joyce Mary Lefevers; and

WHEREAS, Joyce Andree Lefevers Stewart was an active and involved citizen and an esteemed member of the Knox County community where she was a devout member of the Turkey Creek Baptist Church, and where she had served as a Sunday School teacher, choir director, and youth leader; and she was also a member of the Daughters of the American Revolution, and a past Governor of the Junior Women's Study Club; and

WHEREAS, the passing of Joyce Andree Lefevers Stewart has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its utter sense of bereavement upon the passing of Joyce Andree Lefevers Stewart, and extends to her family and many friends its most profound and deepest sympathy.

Section 2. The passion, dedication, intelligence, and social consciousness Joyce Andree Lefevers Stewart brought to this Commonwealth will never be forgotten, and her influence will continue through the hearts and minds of her family and community.

Section 3. When the House of Representatives adjourns this day, February 21, 2002, it does so in loving memory and honor of Joyce Andree Lefevers Stewart.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Honorable James S. Stewart III, HC 76, P. O. Box 556, Flat Lick, Kentucky 40935.

There being no objection **HR 172** was adopted.

Introduction of Bills and Resolutions (Continued)

HB 726, by Representative Nelson: AN ACT relating to expunging teachers' and other school employees' records.

HB 727, by Representative Geveden: AN ACT relating to legislative ethics.

HB 728, by Representatives Richards, Stumbo, L. Clark, Callahan, Hoover, Allen, DeWeese, and J. Arnold: AN ACT relating to administrative regulations and declaring an emergency.

HB 729, by Representative Draud: AN ACT relating to the salaries of nonelected city officers.

HB 730, by Representative Gray: AN ACT relating to workers' compensation and declaring an emergency.

HB 731, by Representative J. Lee: AN ACT relating to the human service transportation delivery program.

HB 732, by Representatives Marzian and Gray: AN ACT relating to wages and hours.

HB 733, by Representatives Heleringer and Stein: AN ACT relating to proposing an amendment to the Constitution of Kentucky relating to powers of the General Assembly.

HJR 169, by Representatives Nelson and J. Turner: A JOINT RESOLUTION naming the "Coal Miners Memorial Highway" in Bell County.

HJR 170, by Representative Nelson: A JOINT RESOLUTION memorializing Dr. R. R. Evans.

HR 171, by Representative Heleringer: A RESOLUTION adjourning the House of Representatives in honor of the fifty year anniversary of the Council on Mental Retardation, Inc.

HR 173, by Representatives Nesler and Stacy: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Adron Doran.

HR 174, by Representatives Marzian, De. Butler, Bather, Feeley, Meeks, Jenkins, Horlander, Miller, Crimm, P. Clark, Wayne, Burch, Brinkman, Heleringer, DeWeese, Bratcher, and Riggs: A RESOLUTION expressing support for the establishment of an oncology network, including a new regional cancer hospital in Louisville, Kentucky.

Motions, Petitions, and Communications (Continued)

Representative Baugh moved the adoption of the following **Legislative Citation No. 57**. Agreed.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of Josephine Bruce of Russellville, Kentucky, and solemnly joins Representative Sheldon Baugh in expressing profound sympathy to the Pedigo and Bruce Families and all who share in the profound loss on the passing of this fine and esteemed citizen whose devotion to and efforts on behalf of her community were without parallel. A Charter Member of the Logan County Republican Woman's Club, who not only served as Treasurer and as Americanism Chair, but whose daily life exemplified Americanism, she was patriotic to the core, holding tight to and educating others about the nuances of those symbols which speak of the greatness of this Nation. Additionally, she served as Past President of the Kentucky American Legion Auxiliary, where she was actively involved in youth-centered programs; as the Logan County Coordinator for the Muscular Dystrophy Society; as a Precinct Election Officer for many years; and was a devoted member of the Crittenden Drive Church of Christ. Born to the late J. B. Pedigo and Annie Martin Pedigo, she was preceded in death by her beloved husband, Jack Bruce, and is survived by her cherished children, Marion Joyce Bruce McCoy and Bob Bruce; siblings, John Pedigo and Robert Pedigo, Irene Deaux and Mildred Campbell; grandchildren Ronald McGuire, Robbie Bruce and Leigh Ellen Bruce; great-grandchild, Isaac McGuire; and a host of devoted friends and admirers. Josephine Bruce will be deeply missed by all those whose lives were touched by her remarkable presence and she is remembered on this day with the greatest respect for her unfailing loyalty to her family, her community, and this great Commonwealth. Done in Frankfort, Kentucky, this twenty-first day of February, in the year two thousand and two.

Legislative Citation No. 57 was adopted without objection.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Local Government: **HB 702**

Natural Resources and Environment: **HB 705**

Tourism Development and Energy: **HB 570, HB 587**

State Government: **HB 232, HB 590, HB 675, SB 14, SB 149, HB 714**

The Clerk announced that the following Resolution has been withdrawn from posting for Committee consideration:

State Government: **HJR 111**

Motions, Petitions, and Communications (Continued)

Representative Barrows moved the adoption of the following **HR 164**:

HR 164, A RESOLUTION declaring February 21, 2002, as Kentucky Museum and History Day.

WHEREAS, there are over 430 museums and history organizations serving Kentucky; and

WHEREAS, these 430 organizations have combined annual budgets totalling over 96 million dollars, with over 25% of these organizations operating on budgets of less than $5,000 per year, and over 50% of these organizations operating on less than $50,000 per year; and

WHEREAS, approximately 6.3 million visitors toured Kentucky museums and historic sites last year; and

WHEREAS, over 828,000 school children participated in educational activities at Kentucky's museums; and

WHEREAS, some 3.7 million artifacts, documenting the state's history, culture, and natural heritage are cared for by Kentucky museums; and

WHEREAS, over 2,700 Kentuckians work in museums and historical organizations; and

WHEREAS, Kentucky Museum and History Day is the first event of its kind sponsored by the Historical Confederation of Kentucky, the Kentucky Association of Museums, and the Kentucky Historical Society; and

WHEREAS, on February 21, 2002, Kentucky Museum and History Day, there will be exhibits on the second floor of the State Capitol, which include: Kentucky museums, historical organizations, museum theater events, living history presentations, and music performances;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives hereby declares February 21, 2002, as Kentucky Museum and History Day, and congratulates all those taking part in the preparation and planning of this important event.

Section 2. The Clerk of the House of Representatives is directed to present a copy of this Resolution to Representative Gippy Graham, for presentation to the appropriate officials sponsoring the Kentucky Museum and History Day event.

There being no objection **HR 164** was adopted.

Representative Thomas moved the adoption of the following **HR 165**:

HR 165, A RESOLUTION adjourning the House of Representatives in honor of the 4-H Youth Development Program upon the occasion of its one hundredth anniversary.

WHEREAS, the 4-H Youth Development Program celebrates its one hundredth anniversary in 2002; and

WHEREAS, the 4-H Youth Development Program sponsors 4-H Clubs in rural and urban areas throughout the Commonwealth of Kentucky; and

WHEREAS, the Kentucky 4-H Clubs have 231,342 members, with participants ranging from five to nineteen years of age; and

WHEREAS, today's 4-H Clubs are very diverse, offering agriculture, career development, information technology, and general life skills programs; and

WHEREAS, the 4-H Youth Development Program continues to make great contributions toward the development of well-rounded youth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives respectfully urges the citizens of the Commonwealth of Kentucky to take advantage of the opportunity to become more aware of and personally involved in the 4-H Youth Development Program.

Section 2. The House of Representatives recognizes the unique contributions of Kentucky's universities to the Commonwealth, its youth, and the adults who work with these youth.

Section 3. When the House of Representatives adjourns this day, it does so in honor of the 4-H Youth Development Program upon the occasion of its one hundredth anniversary.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Wendy Stivers, Ph.D., University of Kentucky, State 4-H Department, Room 212 Scovell Hall, Lexington, Kentucky 40546-0064.

There being no objection **HR 165** was adopted.

Representative Nelson moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Nelson moved that his vote be changed from "yea" to "nay" on **HB 283** and **HB 572**. Agreed.

Representative Buckingham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Buckingham moved that he be recorded as voting "yea" on **HB 469**. Agreed.

Representative Marcotte moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Marcotte moved that his vote be changed from "yea" to "nay" on **HB 67**. Agreed.

Representative Napier moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Napier moved that he be recorded as voting "yea" on **HB 560**. Agreed.

Representative Walton moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Walton moved that he be recorded as voting "nay" on **HB 67**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Wilkey moved that he be recorded as voting "yea" on **HB 372**. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Kerr moved that his vote be changed from "yea" to "nay" on **HB 67**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to the Committee Substitute to **HB 593**, by Representative Marizan:

On page 1, line 10, before the colon "***:***" by inserting "***the following representatives, one (1) of whom shall be male, and one (1) of whom shall be female***"; and

On page 1, line 15, after "***(d)***" by deleting "***One (1) former female player,***" and inserting "***Two (2) former players,***"; and

On page 1, by deleting lines 17 and 18 in their entirety; and

On page 1, line 19, by deleting "***(f)***" and inserting "***(e)***"; and

On page 1, line 20, by deleting "***(g)***" and inserting "***(f)***"; and

On page 1. line 22, by deleting "***(h)***" and inserting "***(g)***"; and

On page 1, line 23, by deleting "*(i)*" and inserting "*(h)*"; and

On page 1, line 24, by deleting "*(j)*" and inserting "*(i)*".

Floor Amendment No. 1 to the Committee Substitute to **HB 100**, by Representative Yonts:

On page 1, lines 7 and 8 delete "***six (6) months, or more, pursuant to this chapter***" and insert in lieu thereof "***at least thirty (30) days***";

On page 3, from line 16 through page 5, line 18 delete Sections 3 and 4 in their entirety; and renumber subsequent section accordingly.

Floor Amendment No. 7 to the Committee Substitute to **HB 540**, by Representative Feeley:

On page 9, line 1, by deleting "***board***" and inserting "***Public Service Commission***" in lieu thereof; and

On page 11, line 20, by deleting "***board***" and inserting "***Public Service Commission***" in lieu thereof; and

On page 16, line 5, by deleting "***board***" and inserting "***Public Service Commission***" in lieu thereof.

Floor Amendment No. 8 to the Committee Substitute to **HB 540**, by Representative Feeley:

On page 16, line 16, after "***board***" by deleting "***shall***" and inserting "***may***" in lieu thereof.

Floor Amendment No. 9 to the Committee Substitute to **HB 540**, by Representative Lindsay:

On page 1, line 12, by deleting "***municipality,***"; and

On page 1, line 13, after "***entity***" to insert "***, and no portion of Sections 1 to 8, 9, 10, 11, 12, 13, or 14 of this Act shall apply to a utility owned by a municipality, unless:***

(a) The utility is a merchant plant as defined in this section; or

(b) The utility is an electric power generation plant which is proposed to be built outside of the county which owns the plant after the effective date of this Act"; and

On page 13, line 9, following "***thereof***" to insert "***, except for a utility which is not subject to regulation as provided in subsection (3)(a) or (3)(b) of Section 1 of this Act, owned by a municipality,***".

Floor Amendment No. 3 to **HB 576**, by Representative Thomas:

On page 2, line 17, after "each", by inserting "***dog***"; and

On page 2, line 22, after "dog", by deleting the new language; and

On page 3, after line 2, by inserting:

"***(3) Every owner of a cat or ferret shall show proof of a valid rabies vaccination upon request of an animal control officer or peace officer.***"; and

On page 3, line 8, after "dog", by deleting the new language; and

On page 3, line 9, after "vaccination", by inserting "***and the owner of the cat or ferret shows proof of a valid rabies vaccination***".

Floor Amendment No. 1 to the Committee Substitute to **HB 643**, by Representative Geveden:

On page 1, line 9, after "***Cabinet***" by inserting "***or his or her designee***"; and

On page 1, line 13, after "***Commission***" by inserting "***or his or her designee***"; and

On page 1, line 14, after "***Resources***" by inserting "***or his or her designee***".

Floor Amendment No. 1 to the Committee Substitute to **HB 129**, by Representative Cherry:

On page 2, line 17, after "*(4)*" by deleting the line in its entirety;

On page 2 lines 18-19, by deleting the lines in their entirety;

On page 2, line 20, by deleting "*(5)*";.

On page 3, line 5, by deleting "*(6)*" and inserting "*(5)*";

On page 3, line 7, by deleting "*(7)*" and inserting "*(6)*"

Floor Amendment No. 10 to the Committee Substitute to **HB 540**, by Representative Riggs:

On page 11, line 6, after "***KRS 151.210.***" by inserting "***When considering an application for an electric generating facility under Section 4 or Section 7 of this Act, the board shall give favorable consideration for the utilization of clean coal technology as defined in Section 402 of the Federal Clean Air Act, as amended.***".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills:

HB 352, Representative C. Belcher

HB 354, Representatives Horlander and Riner

HB 417, Representative Colter

HB 571, Representative Wayne

HB 618, Representative Crimm

HB 659, Representative Wayne.

The following member filed requests to have his name withdrawn as co-sponsor of Bills:

HB 556, Representative Nelson

HB 572, Representative Nelson.

Announcement

Banking and Insurance, upon adjournment, Thursday, February 21, 2002, in the House Chamber.

Adjournment

Representative Stumbo moved that the House adjourn until 9:00 a.m., on Friday, February 22, 2002.

The motion that the House adjourn until 9:00 a.m., on Friday, February 22, 2002, was adopted by voice vote.

FRIDAY, FEBRUARY 22, 2002

THIRTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Father Michael Ramler, Good Shepherd Catholic Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Branham, Geveden, Graham, Hall, Haydon, Nelson, and Stewart.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Thursday, February 21, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 734, by Representatives Marcotte, Walton, Damron, Fischer, Allen, Gray, Ford, Reinhardt, Ballard, R. Adams, Smith, and Kerr: AN ACT relating to deadly weapons.

HB 735, by Representative Yonts: AN ACT relating to sales and use tax.

HJR 175, by Representative Fischer: A RESOLUTION relating to the Roebling Suspension Bridge.

HR 176, by Representative Nunn: A RESOLUTION declaring May 12 - 18, 2002, as National Historic Preservation Week in the Commonwealth of Kentucky.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Education: **HB 722, 725, 726**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 733**

Health and Welfare: **HB 731**

Judiciary: **HB 724, HJR 166, SB 109, 151**

Labor and Industry: **HB 730, 732**

Local Government: **HB 729, SB 100**

Seniors, Military Affairs and Public Safety: **HCR 162**

State Government: **HB 723, 727, 728**

Transportation: **HCR 161, HJR 167, 168, 169, 170**

Floor Resolutions: **HR 171, 174**

Report of Committees

The Committee on Rules reported that **HB 281, HB 605,** and **SB 68** have been posted for passage in the Orders of the Day for February 25, 2002.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Judiciary: **HB 277, HB 688, HB 652, HB 667, HB 639**

Health and Welfare: **HJR 148**

The Clerk announced that the following Bill has been withdrawn from posting for Committee consideration:

Judiciary: **HB 336**

Report of Committees (Continued)

The Committee on Banking and Insurance reported **HB 391** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 391, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer that offers health benefit plan coverage in the small group or large group market shall provide for an extension of benefits, in the event of a member's total disability or confinement in a facility for which benefits would otherwise be payable, at the date of discontinuance of the group policy or contract in accordance with Section 14 of this Act.

Section 2. KRS 304.17A-005 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

(1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;

(2) "At the time of enrollment" means:

(a) At the time of application for an individual, an association that actively markets to individual members, and an employer-organized association that actively markets to individual members; and

(b) During the time of open enrollment or during an insured's initial or special enrollment periods for group health insurance;

(3) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in KRS 304.17A-0954, with similar case characteristics for health benefit plans with the same or similar coverage;

(4) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3);

(5) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33);

(6) "COBRA" means any of the following:

(a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

(b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than sec. 1169); or

(c) 42 U.S.C. sec. 300bb;

(7) (a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:

1. A group health plan;
2. Health insurance coverage;
3. Part A or Part B of Title XVIII of the Social Security Act;
4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;
5. Chapter 55 of Title 10, United States Code;
6. A medical care program of the Indian Health Service or of a tribal organization;
7. A state health benefits risk pool;
8. A health plan offered under Chapter 89 of Title 5, United States Code;
9. A public health plan, as defined in regulations; or
10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)).

(b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection (11) of this section;

(8) "Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. secs. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. secs. 1396 et seq.) and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in KRS 304.17A-240(2)(a), (b), and (c);

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;

(9) "Employer-organized association" means any of the following:

(a) Any entity that was qualified by the commissioner as an eligible association prior to April 10, 1998, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;

(b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled; or

(c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

Except as provided in KRS 304.17A-200, 304.17A.210, and 304.17A-220, no employer-organized association shall be treated as an association, small group, or large group under this subtitle;

(10) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;

(11) "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:

(a) Coverage only for accident, or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Automobile medical payment insurance;

(f) Credit-only insurance;

(g) Coverage for on-site medical clinics;

(h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;

(i) Limited scope dental or vision benefits;

(j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;

(k) Such other similar, limited benefits as are specified in administrative regulations;

(l) Coverage only for a specified disease or illness;

(m) Hospital indemnity or other fixed indemnity insurance;

(n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;

(o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and

(p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan;

(12) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);

(13) "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals under KRS 304.17A-400 to 304.17A-480;

(14) "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that

provides health benefits to a guaranteed acceptance program qualified individual and is eligible for assessment and refunds under the guaranteed acceptance program under KRS 304.17A-400 to 304.17A-480;

(15) "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;

(16) "Guaranteed acceptance program qualified individual" means an individual who, on or before December 31, 2000:

(a) Is not an eligible individual;

(b) Is not eligible for or covered by other health benefit plan coverage or who is a spouse or a dependent of an individual who:

1. Waived coverage under KRS 304.17A-210(2); or

2. Did not elect family coverage that was available through the association or group market;

(c) Within the previous three (3) years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high-cost condition, or is a high risk individual as defined by the underwriting criteria applied by an insurer under the alternative underwriting mechanism established in KRS 304.17A-430(3);

(d) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and

(e) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:

1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;

2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or

3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;

(17) "Guaranteed acceptance plan supporting insurer" means either an insurer, on or before December 31, 2000, that is not a guaranteed acceptance plan participating insurer or is a stop loss carrier, on or before December 31, 2000, provided that a guaranteed acceptance plan supporting insurer shall not include an employer-sponsored self-insured health benefit plan exempted by ERISA;

(18) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code ***, or limited health service benefit plans***;

(19) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(b) Chiropractors licensed under KRS Chapter 312;

(c) Dentists licensed under KRS Chapter 313;

(d) Optometrists licensed under KRS Chapter 320;

(e) Physician assistants regulated under KRS Chapter 311;

(f) ***Advanced registered*** nurse practitioners licensed under KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;

(20) (a) "High-cost condition," pursuant to the Kentucky Guaranteed Acceptance Program, means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with KRS 304.17A-280, but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.

(b) The commissioner by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using:

1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and

2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the commissioner, the scoring scale for which shall be established by the commissioner.

(c) The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, and Wilson's disease;

(21) "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;

(22) "Individual market" means the market for the health insurance coverage offered to individuals other than in connection with a group health plan;

(23) "Insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;

(24) "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums;

(25) ***"Kentucky Access" has the meaning provided in KRS 304.17B-001(17);***

(26) "Large group" means:

(a) An employer with fifty-one (51) or more employees; or

(b) An affiliated group with fifty-one (51) or more eligible members;

(27)[~~(26)~~] "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards for furnishing a comprehensive set of health care services and financial incentives for covered persons using the participating providers and procedures provided for in the plan;

(28)[~~(27)~~] "Market segment" means the portion of the market covering one (1) of the following:

(a) Individual;

(b) Small group;

(c) Large group; or

(d) Association;

(29)[~~(28)~~] "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;

(30)[~~(29)~~] "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;

(31)[~~(30)~~] "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;

(32)[~~(31)~~] "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;

(33)[~~(32)~~] "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;

(34)[~~(33)~~] "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;

(35)[~~(34)~~] "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the

preceding calendar year and who employs at least two (2) employees on the first day of the plan year;

(36)[~~(35)~~] "Small group" means:

(a) A small employer with two (2) to fifty (50) employees; or

(b) An affiliated group or association with two (2) to fifty (50) eligible members; and

(37)[~~(36)~~] "Standard benefit plan" means the plan identified in KRS 304.17A-250.

(38)[~~(37)~~] "Telehealth" has the meaning provided in KRS 311.550.

Section 3. KRS 304.17A-080 is amended to read as follows:

(1) There is hereby created and established a Health Insurance Advisory Council whose duties shall be to review and discuss with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of nine (9) members: the commissioner plus eight (8) persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The eight (8) persons appointed by the Governor with the advice of the commissioner shall be:

(a) Two (2) representatives of insurers currently offering health benefit plans in the state;

(b) Two (2) practicing health care providers;

(c) Two (2) representatives of purchasers of health benefit plans; and

(d) Two (2) representatives of agents.

(3) The council shall:

(a) Review and discuss the design of the standard health benefit plan;

(b) Review and discuss the rate-filing process for all health benefit plans;

(c) Review and discuss the administrative regulations concerning this subtitle to be promulgated by the department;

(d) Make recommendations on high-cost conditions as provided in ***Section 10 of this Act***[~~subsection (5) of this section~~];

(e) Advise the Department of Insurance concerning the Department of Insurance's separation plan for the division of duties and responsibilities between the operation of the Department of Insurance and the operation of Kentucky Access;

(f) Review and discuss issues that impact Kentucky Access; and

(g) Review and discuss other issues at the request of the commissioner.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

[~~(5) Prior to January 1, 2001, no less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established by the commissioner under KRS 304.17A-005(20) and 304.17A-280 and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes by administrative regulation the commissioner deems appropriate. The council, in making recommendations, and the commissioner, in making changes, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions. On or after January 1, 2001, no less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established by the Department for Kentucky Access and report to the commissioner any and all recommended changes.~~

~~(6) For each calendar year that the Kentucky Guaranteed Acceptance Program is operating, every insurer shall report to the commissioner and the Health Insurance Advisory Council, in the form and at the time as the commissioner by administrative regulation may specify, information that the commissioner deems necessary for the council and commissioner to evaluate the list of high-cost conditions as required under this section.~~]

Section 4. KRS 304.17A-095 is amended to read as follows:

(1) (a) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan to any market segment other than a large group shall, before use thereof, file with the commissioner its rates, fees, dues, and other charges paid by insureds, members, enrollees, or subscribers***. The insurer***[~~,~~] shall ***also*** submit a copy of the filing to the Attorney General[~~,~~] and shall comply with the provisions of this section. The insurer shall adhere to its rates, fees, dues, and other charges as filed with the commissioner. The insurer ***shall submit a new filing to reflect any material change to the previously filed and approved rate filing. For all changes to a rate filing, the insurer shall file an amendment to the existing filed and approved rate filing***[~~may submit new filings from time to time as it deems proper~~].

(b) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan to a large group as defined in KRS 304.17A-005 shall file the rating methodology with the commissioner and shall submit a copy of the filing to the Attorney General.

(2) (a) A rate filing under this section may be used by the insurer on and after the date of filing with the commissioner prior to approval by the commissioner. A rate filing shall be approved or disapproved by the commissioner within sixty (60) days after the date of filing. Should sixty (60) days expire after the commissioner receives the filing before approval or disapproval of the filing, the filing shall be deemed approved.~~[The commissioner may hold a hearing within sixty (60) days after receiving a filing containing a rate increase. Not less than thirty (30) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearing. The Attorney General may participate as a health insurance consumer intervenor and be considered a party to the hearing.~~

~~(b) The commissioner shall hold a hearing upon written request, including the reasons for the request, by the Attorney General, provided the request is in accordance with subsection (3) of this section.~~

~~(c) The commissioner shall hold a hearing, unless waived by the health insurer, before ordering a retroactive reduction of rates.~~

~~(d) The hearing shall be a public hearing conducted in accordance with KRS Chapter 13B.]~~

(b)~~[(e)]~~In the circumstances of a filing that has been deemed approved ***or has been disapproved*** under paragraph (a) of this subsection, the commissioner shall have the authority to order a retroactive reduction of rates to a reasonable rate if after applying the factors in subsection (3) of this section the commissioner determines that the rates were unreasonable. If the commissioner seeks to order a retroactive reduction of rates and more than one (1) year has passed since the date of the filing, the commissioner shall consider the reasonableness of the rate over the entire period during which the filing has been in effect.

(3) In approving or disapproving a filing under this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium or fee charged;

(b) Whether the fees paid to providers for the covered services are reasonable in relation to the premium or fee charged;

(c) Previous premium rates or fees for the policies or contracts to which the filing applies;

(d) The effect of the rate or rate increase on policyholders, enrollees, and subscribers;

(e) Whether the rates, fees, dues, or other charges are excessive, inadequate, or unfairly discriminatory; and

(f) The effect on the rates of any assessment made under KRS 304.17B-021; and

(g) Other factors as deemed relevant by the commissioner.

(4) The rates for each policyholder shall be guaranteed for twelve (12) months at the rate in effect on the date of issue or date of renewal.

(5) At any time the commissioner, after a public hearing for which at least thirty (30) days' notice has been given, may withdraw approval of rates or fees previously approved under this section and may order an appropriate refund or future premium credit to policyholders, enrollees, and subscribers if the commissioner determines that the rates or fees previously approved are in violation of this chapter.

(6) Notwithstanding subsection (2)~~[(a) to (e)]~~ of this section, premium rates may be used upon filing with the department of a policy form not previously used if the filing is accompanied by the policy form filing and a minimum loss ratio guarantee. Insurers may use the filing procedure specified in this subsection only if the affected policy forms disclose the benefit of a minimum loss ratio guarantee. An insurer may not elect to use the filing procedure in this subsection for a policy form that does not contain the minimum loss ratio guarantee. Insurers may not amend policy forms to provide for a minimum loss ratio guarantee. If an insurer elects to use the filing procedure in this subsection for a policy form or forms, the insurer shall not use a filing of premium rates that does not provide a minimum loss ratio guarantee for that policy form or forms.

(a) The minimum loss ratio shall be in writing and shall contain at least the following:

1. An actuarial memorandum specifying the expected loss ratio that complies with the standards as set forth in this subsection;

2. A statement certifying that all rates, fees, dues, and other charges are not excessive, inadequate, or unfairly discriminatory;

3. Detailed experience information concerning the policy forms;

4. A step-by-step description of the process used to develop the experience loss ratio, including demonstration with supporting data;

5. A guarantee of a specific lifetime minimum loss ratio, that shall be greater than or equal to the following, taking into consideration adjustments for duration as set forth in administrative regulations promulgated by the commissioner:

a. Seventy percent (70%) for policies issued to individuals or for certificates issued to members of an association that does not offer coverage to small employers;

b. Seventy percent (70%) for policies issued to small groups of two (2) to ten (10) employees or for certificates issued to members of an association that offers coverage to small employers; and

c. Seventy-five percent (75%) for policies issued to small groups of eleven (11) to fifty (50) employees;

6. A guarantee that the actual Kentucky loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the minimum loss ratio standards referred to in subparagraph 5. of this paragraph, adjusted for duration;

7. A guarantee that the actual Kentucky lifetime loss ratio shall meet or exceed the minimum loss ratio standards referred to in subparagraph 5. of this paragraph; and

8. If the annual earned premium volume in Kentucky under the particular policy form is less than two million five hundred thousand dollars ($2,500,000), the minimum loss ratio guarantee shall be based partially on the Kentucky earned premium and other credibility factors as specified by the commissioner.

(b) The actual Kentucky minimum loss ratio results for each year at issue shall be independently audited at the insurer's expense and the audit shall be filed with the commissioner not later than one hundred twenty (120) days after the end of the year at issue. The audit shall demonstrate the calculation of the actual Kentucky loss ratio in a manner prescribed as set forth in administrative regulations promulgated by the commissioner.

(c) The insurer shall refund premiums in the amount necessary to bring the actual loss ratio up to the guaranteed minimum loss ratio.

(d) A Kentucky policyholder affected by the guaranteed minimum loss ratio shall receive a portion of the premium refund relative to the premium paid by the policyholder. The refund shall be made to all Kentucky policyholders insured under the applicable policy form during the year at issue if the refund would equal ten dollars ($10) or more per policy. The refund shall include statutory interest from July 1 of the year at issue until the date of payment. Payment shall be made not later than one hundred eighty (180) days after the end of the year at issue.

(e) Premium refunds of less than ten dollars ($10) per insured shall be aggregated by the insurer and paid to the Kentucky State Treasury.

(f) None of the provisions of subsections (2) and (3) of this section shall apply if premium rates are filed with the department and accompanied by a minimum loss ratio guarantee that meets the requirements of this subsection. Such filings shall be deemed approved. Each insurer paying a risk assessment under KRS 304.17B-021 may include the amount of the assessment in establishing premium rates filed with the commissioner under this section. The insurer shall identify any assessment allocated.

(g) The policy form filing of an insurer using the filing procedure with a minimum loss ratio guarantee will disclose to the enrollee, member, or subscriber as prescribed by the commissioner an explanation of the lifetime loss ratio guarantee, and the actual loss ratio, and any adjustments for duration.

(h) The insurer who elects to use the filing procedure with a minimum loss ratio guarantee shall notify all policyholders of the refund calculation, the result of the refund calculation, the percent of premium on an aggregate basis to be refunded if any, any amount of the refund attributed to the payment of interests, and an explanation of amounts less than ten dollars ($10).

(7) The commissioner may by administrative regulation prescribe any additional information related to rates, fees, dues, and other charges as they relate to the factors set out in subsection (3) of this section that he or she deems necessary and relevant to be included in the filings and the form of the filings required by this section. When determining a loss ratio for the purposes of loss ratio guarantee, the insurer shall divide the total of the claims incurred, plus preferred provider organization expenses, case management and utilization review expenses, plus reinsurance premiums less reinsurance recoveries by the premiums earned less state and local premium taxes less other assessments. For purposes of determining the loss ratio for any loss ratio guarantee pursuant to this section, the commissioner may examine the insurer's expenses for preferred provider organization, case management, utilization review, and reinsurance used by the insurer in calculating the loss ratio guarantee for reasonableness. Only those expenses found to be reasonable by the commissioner may be used by the insurer for determining the loss ratio for purposes of any loss ratio guarantee.

(8) (a) The commissioner shall hold a hearing upon written request by the Attorney General. The written request shall be based upon one (1) or more of the reasons set out in subsection (3) of this section and shall state the applicable reasons.

(b) An insurer may request a hearing, pursuant to KRS 304.2-310, with regard to any action taken by the commissioner under this section as to the disapproval of rates or an order of a retroactive reduction of rates.

(c) The hearing shall be a public hearing conducted in accordance with KRS 304.2-310.

Section 5. KRS 304.17A-0952 is amended to read as follows:

Premium rates for a health benefit plan issued or renewed to an individual, a small group, or an association on or after April 10, 1998, shall be subject to the following provisions:

(1) The premium rates charged during a rating period to an individual with similar case characteristics for the same coverage, or the rates that could be charged to that individual under the rating system for that class of business, shall not vary from the index rate by more than thirty-five percent (35%) of the index rate, except that the premium rates charged to an

individual shall not vary from the index rate by more than fifty percent (50%) for two (2) consecutive years beginning January 1, 2001. ***However, upon any policy issuance or renewal, on or after January 1, 2003, the maximum variation shall revert to thirty-five percent (35%) of the index rate.***

(2) The percentage increase in the premium rate charged to an individual for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed twenty percent (20%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the individual and dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the individual as determined from the insurer's rate manual for the class of business.

(3) The premium rates charged during a rating period to a small group or to an association member with similar case characteristics for the same coverage, or the rates that could be charged to that small group or that association member under the rating system for that class of business, shall not vary from the index rate by more than twenty-five percent (25%) of the index rate, except that the premium rate charged to a small group or association shall not vary from the index rate by more than fifty percent (50%) for two (2) consecutive years beginning January 1, 2001. ***However, upon any policy issuance or renewal, on or after January 1, 2003, the maximum variation shall revert to twenty-five percent (25%) of the index rate.***

(4) The percentage increase in the premium rate charged to a small group or to an association member for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed twenty percent (20%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the employee, association member, or dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the small group or association member as determined from the insurer's rate manual for the class of business.

(5) In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(6) Adjustments in rates for claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, health status, and duration of coverage shall not be charged to an individual group member or the member's dependents. Any adjustment shall be applied uniformly to the rates charged for all individuals and dependents of the small group.

(7) The commissioner may approve establishment of additional classes of business upon application to the commissioner and a finding by the commissioner that the additional class would enhance the efficiency and fairness for the applicable market segment.

(a) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business in that market segment by more than ten percent (10%).

(b) An insurer may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative cost related to the following reasons:

1. The insurer uses more than one (1) type of system for the marketing and sale of the health benefit plans; or

2. The insurer has acquired a class of business from another insurer.

(c) Notwithstanding any other provision of this subsection, beginning January 1, 2001, a GAP participating insurer may establish a separate class of business for the purpose of separating guaranteed acceptance program qualified individuals from other individuals enrolled in their plan prior to January 1, 2001. The index rate for the separate class created under this paragraph shall be established taking into consideration expected claims experience and administrative costs of the new class of business and the previous class of business.

(8) For the purpose of this section, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize a restricted provider network if utilization of the restricted provider network results in substantial differences in claims costs.

(9) Notwithstanding any other provision of this section, an insurer shall not be required to utilize the experience of those

individuals with high-cost conditions who enrolled in its plans between July 15, 1995, and April 10, 1998, to develop the insurer's index rate for its individual policies.

(10) Nothing in this section shall be construed to prevent an insurer from offering incentives to participate in a program of disease prevention or health improvement.

Section 6. KRS 304.17A-0954 is amended to read as follows:

(1) For purposes of this section:

(a) "Base premium rate" has the meaning provided in KRS 304.17A-005;

(b) "Employer" means a person engaged in a trade or business who has two (2) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year;

(c) "Employer-organized association" means any of the following:

1. Any entity which was qualified by the commissioner as an eligible association prior to April 10, 1998, and which has actively marketed a health insurance program to its members after September 8, 1996, and which is not insurer-controlled;

2. An entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and which is not insurer-controlled; or

3. Any entity which is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation;

(d) "Index rate" has the meaning provided in KRS 304.17A-005.

(2) Notwithstanding any other provision of this chapter, the amount or rate of premiums for an employer-organized association health plan may be determined, subject to the restrictions of subsection (3) of this section, based upon the experience or projected experience of the employer-organized associations whose employers obtain group coverage under the plan. Without the written consent of the employer-organized association filed with the commissioner, the index rate for the employer-organized association shall be calculated solely with respect to that employer-organized association and shall not be tied to, linked to, or otherwise adversely affected by any other index rate used by the issuing insurer.

(3) The following restrictions shall be applied in calculating the permissible amount or rate of premiums for an employer-organized health insurance plan:

(a) The premium rates charged during a rating period to members of the employer-organized association with similar characteristics for the same or similar coverage, or the premium rates that could be charged to a member of the employer-organized association under the rating system for that class of business, shall not vary from its own index rate by more than twenty-five percent (25%) of its own index rate, except that the premium rates charged to an employer-organized association shall not vary from the index rate by more than fifty percent (50%) for two (2) consecutive years beginning January 1, 2001. ***However, upon any policy issuance or renewal, on or after January 1, 2003, the maximum variation shall revert to twenty-five percent (25%) of the index rate.***

(b) The percentage increase in the premium rate charged to an employer member of an employer-organized association for a new rating period shall not exceed the sum of the following:

1. The percentage change in the new business premium rate for the employer-organized association measured from the first day of the prior rating period to the first day of the new rating period;

2. Any adjustment, not to exceed twenty percent (20%) annually and adjusted pro rata for rating period of less than one (1) year, due to the claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the member as determined from the insurer's rate manual; and

3. Any adjustment due to change in coverage or change in the case characteristics of the member as determined by the insurer's rate manual.

(4) In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(5) For the purpose of this section, a health insurance contract that utilizes a restricted provider network shall not be considered similar coverage to a health insurance contract that does not utilize a restricted provider network if utilization of the restricted provider network results in measurable differences in claims costs.

Section 7. KRS 304.17A-150 is amended to read as follows:

(1) On and after July 15, 1995, it is an unfair trade practice for an insurer, agent, broker, or any other person in the business of marketing and selling health plans, to commit or perform any of the following acts:

(a) Encourage individuals or groups to refrain from filing an application for coverage with the insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(b) Encourage or direct individuals or groups to seek coverage from another insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(c) Encourage an employer to exclude an employee from coverage.

The provisions of this subsection shall not apply to information provided regarding the established geographic service area of an insurer.

(2) It is an unfair trade practice for an insurer to compensate an agent, broker, or any other person in the business of marketing and selling health plans on the basis of the health status, claims experience, industry, occupation, or geographic location of the insured or prospective insured except as provided in KRS 304.17B-001 to 304.17B-031.

(3) It shall constitute an unfair trade practice for any insurer, insurance agent, or third-party administrator to refer an individual[~~ employee~~] to Kentucky Access, or to arrange for an individual[~~ employee~~] to apply to Kentucky Access, for the purpose of separating an ***individual***[~~employee~~] from group health insurance coverage[~~ provided in connection with the individual's employment~~].

(4) It is an unfair trade practice for an insurer that offers multiple health benefit plans to require a health care provider, as a condition of participation in a health benefit plan of the insurer, to participate in any of the insurer's other health benefit plans. In addition to the proceedings and penalties provided in this chapter for violation of this provision, a contract provision violating this subsection is void.

(5) It is an unfair trade practice for an insurer not to compute an insured's coinsurance or cost sharing on the basis of the amount actually received by a health-care provider from the insurer.

(6) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any insurer that fails to pay an assessment under KRS 304.17B-021. As an alternative, the commissioner may levy a civil penalty on any member insurer that fails to pay the assessment when due. The civil penalty shall not exceed five percent (5%) of the unpaid assessment per month, but no civil penalty shall be less than one hundred dollars ($100) per month.

(7) The remedy provided by KRS 304.12-120 shall be available for conduct proscribed by this section.

(8) It is an unfair claims settlement practice for any person to make claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made in instances in which the insured has a liability under the policy beyond his or her copayment or deductible.

Section 8. KRS 304.17A-240 is amended to read as follows:

(1) Except as provided in this section, an insurer shall renew or continue in force a health benefit plan at the option of the insured.

(2) An insurer may nonrenew or discontinue a health benefit plan based only on one (1) or more of the following:

(a) The insured has failed to pay premiums or contributions in accordance with the terms of the plan or the insurer has not received timely premium payments;

(b) The insured has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage;

(c) The insured has engaged in intentional and abusive noncompliance with material provisions of the health benefit plan;

(d) The insurer is ceasing to offer coverage in the individual or group market in accordance with subsection (3) of this section;

(e) In the case of an insurer that offers health benefit plans through a network plan, the individual no longer resides, lives, or works in the service area or in an area for which the insurer is authorized to do business, but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals, or there is no longer any enrollee in connection with the group plan who resides, lives, or works in the service area of the insurer;[~~ or~~]

(f) In the case of a health benefit plan that is made available only through one (1) or more bona fide associations, the membership of the individual or employer in the association on the basis of which the coverage is provided ceases, but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals***; or***

(g) In the case of a health benefit plan issued to a group, the group no longer meets participation requirements or contribution requirements as established by the insurer.

(3) (a) In any case in which an insurer decides to discontinue offering a particular type of health benefit plan, coverage of the type may be discontinued by the insurer upon approval by the commissioner only if:

1. The insurer provides notice to each insured provided coverage of this type in the market of the discontinuation at least ninety (90) days prior to the date of the discontinuation of the coverage;

2. The insurer offers, to each insured provided coverage of this type, the option to purchase any other health benefit plan currently of that type being offered by the insurer in that market; and

3. In exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph 2. of this paragraph, the insurer acts uniformly without regard to any health status-related factor of enrolled insureds or insureds who may become eligible for coverage.

(b) 1. Subject to paragraph (a)3. of this subsection, in any case in which an insurer elects to discontinue offering all health benefit plans in Kentucky, health benefit plans may be discontinued by the insurer only if:

a. The insurer provides notice to the commissioner and to each insured of the discontinuation at least one hundred eighty (180) days prior to the date of the expiration of the coverage; and

b. All health benefit plans issued or delivered for issuance in Kentucky are discontinued and coverage under the health benefit plans is not renewed.

2. In the case of a discontinuation under subparagraph 1. of this paragraph, the insurer may not provide for the issuance of any health benefit plans in Kentucky during the five (5) year period beginning on the date of the discontinuation of the last health benefit plan not so renewed.

(4) At the time of coverage renewal, an insurer may modify, with approval of the commissioner, the health benefit plan for a policy form so long as the modification is consistent with this chapter and effective on a uniform basis among all individuals with that policy form.

(5) In applying this section in the case of a health benefit plan that is made available by an insurer only through one (1) or more associations, a reference to an individual is deemed to include a reference to an association of which the individual is a member, and a reference to an employer member is deemed to include a reference to the employer.

Section 9. KRS 304.17A-669 is amended to read as follows:

(1) Nothing in KRS 304.17A-660 to 304.17A-669 shall be construed as mandating coverage for mental health conditions.

(2) The following shall be exempt from the provisions of KRS 304.17A-660 to 304.17A-669:

(a) A group health benefit plan covering fewer than ***fifty-one (51)***[~~fifty (50)~~] employees;

(b) An individual health benefit plan; and

(c) An employer-organized association as defined in KRS 304.17A-005.

SECTION 10. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established under KRS 304.17B-001(14) and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes by administrative regulation the commissioner deems appropriate. The council, in making recommendations, and the commissioner, in making changes, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions.

(2) The commissioner may by administrative regulation add to or delete from the list of high-cost conditions for Kentucky Access.

Section 11. KRS 304.17B-015 is amended to read as follows:

(1) Any individual who is an eligible individual is eligible for coverage under Kentucky Access, except as specified in paragraphs (a), (b), (d), and (e) of subsection (4) of this section.

(2) Any individual who is not an eligible individual who has been a resident of the Commonwealth for at least twelve (12) months immediately preceding the application for Kentucky Access coverage is eligible for coverage under Kentucky Access if one (1) of the following conditions is met:

(a) The individual has been rejected by at least ***one (1) insurer***[~~two (2) insurers~~] for coverage of a health benefit plan that is substantially similar to Kentucky Access coverage;

(b) The individual has been offered coverage substantially similar to Kentucky Access coverage at a premium rate greater than the Kentucky Access premium rate at the time of enrollment or upon renewal; or

(c) The individual has a high-cost condition listed in KRS 304.17B-001.

(3) A Kentucky Access enrollee whose premium rates exceed claims for a three (3) year period shall be issued a notice of insurability. The notice shall indicate that the Kentucky Access enrollee has not had claims exceed premium rates for a three (3) year period and may be used by the enrollee to obtain insurance in the regular individual market.

(4) An individual shall not be eligible for coverage under Kentucky Access if:

(a) The individual has, or is eligible for, on ***or after the effective***[~~the~~] date of [~~application for~~] coverage under Kentucky Access, substantially similar coverage under another contract or policy, unless the individual was issued coverage from a GAP participating insurer as a GAP qualified individual prior to January 1, 2001. A GAP qualified individual shall be automatically eligible for coverage under Kentucky Access without regard to the requirements of subsection (2) of this section. An individual who is ineligible for coverage pursuant to this paragraph shall not preclude the individual's spouse or dependents from being eligible for Kentucky Access coverage. As used in this paragraph, "eligible for" includes any individual who was eligible for coverage but waived that coverage. That individual shall be ineligible for Kentucky Access coverage through the period of waived coverage;

(b) The individual is eligible for coverage under Medicaid or Medicare;

(c) The individual previously terminated Kentucky Access coverage and twelve (12) months have not elapsed since the coverage was terminated, unless the individual demonstrates a good faith reason for the termination;

(d) Except for covered benefits paid under the standard health benefit plan as specified in KRS 304.17B-019, Kentucky Access has paid two million dollars ($2,000,000) in covered benefits per individual. The maximum limit under this paragraph may be increased by the department; or

(e) The individual is confined to a public institution or incarcerated in a federal, state, or local penal institution or in the custody of federal, state, or local law enforcement authorities, including work release programs.

(5) The coverage of any person who ceases to meet the requirements of this section *or the requirements of any administrative regulation promulgated under this subtitle* may be terminated.

SECTION 12. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Group policy" has the meaning provided in Section 13 of this Act; and

(b) "Medicare" has the meaning provided in Section 13 of this Act.

(2) An insurer providing group health insurance coverage shall offer a conversion health insurance policy, by written notice, to any group member terminated under the group policy for any reason. The insurer shall offer a conversion health insurance policy substantially similar to the group policy. The former group member shall meet the following conditions:

(a) The former group member had been a member of the group and covered under any health insurance policy offered by the group for at least three (3) months;

(b) The former group member must make written application to the insurer for conversion health insurance coverage not later than thirty-one (31) days after notice pursuant to subsection (6) of this section; and

(c) The former group member must pay the monthly, quarterly, semiannual, or annual premium, at the option of the applicant, to the insurer not later than thirty-one (31) days after notice pursuant to subsection (6) of this section.

(3) An insurer shall offer the following terms of conversion health insurance coverage:

(a) Conversion health insurance coverage shall be available without evidence of insurability and shall contain no pre-existing condition limitations;

(b) The premium for conversion health insurance coverage shall be according to the insurer's table of premium rates in effect on the latter of:

1. The effective date of the conversion policy; or

2. The date of application when the premium rate applies to the class of risk to which the covered persons belong, to their ages, and to the form and amount of insurance provided;

(c) The conversion health insurance policy shall cover the former group member and eligible dependents covered by the group policy on the date coverage under the group policy terminated.

(d) The effective date of the conversion health insurance policy shall be the date of termination of coverage under the group policy; and

(e) The conversion health insurance policy shall provide benefits substantially similar to those provided by the group policy, but not less than the minimum standards set forth in KRS 304.18-120 and any administrative regulations promulgated thereunder.

(4) The right to conversion health insurance coverage shall also be available:

(a) To the surviving spouse, at the death of the group member, with respect to the spouse and such children whose coverage under the group policy would terminate or terminates by reason of the death of the group member;

(b) To a child solely with respect to himself upon termination of membership in the group or his coverage by reason of operation of the limiting age of coverage under the group policy while covered as a dependent thereunder; or

(c) To a former spouse for himself and such children of whom he is awarded custody when coverage under the group policy would terminate or terminates by reason of termination of dependency as defined in the group policy and resulting from an order dissolving the marriage entered by a court of competent jurisdiction.

(5) Conversion health insurance coverage need not be granted in the following situations:

(a) At the time of application, the applicant is or could be covered by Medicare;

(b) At the time of application, the applicant is or could be covered by another group coverage (insured or uninsured) or, the applicant is covered by substantially similar benefits by another individual hospital, surgical, or medical expenses insurance policy; or

(c) The issuance of conversion health insurance coverage would cause the applicant to be overinsured according to the insurer's standards, taking into account that the applicant is or could be covered by similar benefits pursuant to or in accordance with the requirements of any statute and the individual coverage described in paragraph (b) of this subsection.

(6) Notice of the right to conversion health insurance coverage shall be given as follows:

(a) For group policies delivered, issued for delivery, or renewed after the effective date of this Act, the insurer shall give written notice of the right to conversion health insurance coverage to any former group member entitled to conversion coverage under this section upon notice from the group policyholder that the group member has terminated membership in the group, upon termination of the former group member's continued group health insurance coverage pursuant to Section 13 of this Act or COBRA as defined in Section 2(6) of this Act, or upon termination of the group policy for any reason. The written notice shall clearly explain the former group member's right to a conversion policy.

(b) The thirty-one (31) day period of subsection (2)(b) of this section shall not begin to run until the notice required by this subsection is mailed or delivered to the last known address of the former group member.

(c) If a former group member becomes entitled to obtain conversion health insurance coverage, pursuant to this section, and the insurer fails to give the former group member written notice of the right, pursuant to this subsection, the insurer shall give written notice to the former group member as soon as practicable after being notified of the insurer's failure to give written notice of conversion rights to the former group member and such former group member shall have an additional period within which to exercise his conversion rights. The additional period shall expire sixty (60) days after written notice is received from the insurer. Written notice delivered or mailed to the last known address of the former group member shall constitute the giving of notice for the purpose of this paragraph. If a former group member makes application and pays the premium, for conversion health insurance coverage within the additional period allowed by this paragraph, the effective date of conversion health insurance coverage shall be the date of termination of group health insurance coverage. However, nothing in this subsection shall require an insurer to give notice or provide conversion coverage to a former group member ninety (90) days after termination of the former group member's group coverage.

Section 13. KRS 304.18-110 is amended to read as follows:

(1) As used in this section:

(a) "Group policy" means group health insurance policies as defined in KRS 304.18-020 and blanket health insurance policies which the commissioner, in his discretion, designates as subject to this section, which:

1. Affect the rights of a Kentucky insured and bear a reasonable relation to Kentucky, regardless of whether delivered or issued for delivery in Kentucky;

2. Provide hospital or surgical expenses benefits, other than for a specific disease or accidental injury only; and

3. Are delivered, issued for delivery, or renewed after *the effective date of this Act*[~~July 15, 1986~~];

(b) "Medicare" means Title XVIII of the United States Social Security Act as amended or superseded.

(2) Persons insured under group policies have the right upon termination of group membership to continue coverage for themselves and their dependents upon meeting the following conditions:

(a) The group member has been covered by the group policy or any group policy it replaced for at least three (3) months; and

(b) Notice is given to the insurer and payment of the group rate is made to the insurer*, by the group number,* within thirty-one (31) days after notice pursuant to subsection *(7)*[~~(9)~~] of this section.

(3) Continued group health insurance coverage shall terminate on the earlier of:

(a) The date eighteen (18) months after the date on which the group coverage would otherwise have terminated because of termination of group membership;

(b) If the group member fails to make timely payment of premium to the insurance company *and the insurance company has provided notice of termination pursuant to KRS 304.17A-245, coverage shall terminate at the end of the grace period as provided by the group policy*[~~, the end of the period for which premium payment was made~~]; or

(c) The date the group policy is terminated and is not replaced by another group policy within thirty-one (31) days.

(4) If a group policy is replaced, *by a succeeding insurer,* persons under the continued group health insurance shall remain

covered under the prior insurer's[~~under such coverage under the replaced~~] policy until it terminates in accordance with subsection (3) of this section.

(5) [~~Group members have the right upon termination of coverage under a group policy for any reason to have a conversion health insurance policy providing substantially similar benefits issued to the group member by the insurer upon meeting the following conditions:~~

~~(a) The group member has been covered by the group policy or any policy it replaced for at least three (3) months;~~

~~(b) The group member must make written application to the insurer for conversion health insurance coverage not later than thirty-one (31) days after notice pursuant to subsection (9) of this section; and~~

~~(c) The group member must pay the monthly, quarterly, semiannual, or annual premium, at the option of the applicant, to the insurer not later than thirty-one (31) days after notice pursuant to subsection (9) of this section.~~

~~(6) Terms of conversion health insurance coverage:~~

~~(a) Conversion health insurance coverage shall be available without evidence of insurability and shall contain no pre-existing condition limitations;~~

~~(b) The premium for conversion health insurance coverage shall be according to the insurer's table of premium rates in effect on the latter of:~~

~~1. The effective date of the converted policy; or~~

~~2. The date of application when the premium rate applies to the class of risk to which the covered persons belong, to their ages, and to the form and amount of insurance provided;~~

~~(c) The conversion health insurance policy shall cover the group member and eligible dependents covered by the group policy on the date coverage under the group policy terminated;~~

~~(d) The effective date of the conversion health insurance policy shall be the date of termination of coverage under the group policy; and~~

~~(e) The conversion health insurance policy shall provide benefits substantially similar to those provided by the group policy, but not less than the minimum standards set forth in KRS 304.18-120.~~

~~(7)~~]The right to continue group health insurance coverage [~~and the right to conversion health insurance coverage~~]shall also be available:

(a) To the surviving spouse, at the death of the group member, with respect to the spouse and such children whose coverage under the group policy would terminate or terminates by reason of the death of the group member;

(b) To a child solely with respect to himself upon termination of membership in the group or his coverage by reason of operation of the limiting age of coverage under the group policy while covered as a dependent thereunder; or

(c) To a former spouse for himself and such children of whom he is awarded custody when coverage under the group policy would terminate or terminates by reason of termination of dependency as defined in the group policy and resulting from an order dissolving the marriage entered by a court of competent jurisdiction.

(6)[~~(8)~~] Continuation of group health insurance coverage [~~or conversion health insurance coverage~~]need not be granted in the following situations:

(a) ***At the time of application,*** the applicant is or could be covered by Medicare;

(b) ***At the time of application,*** the applicant is or could be covered by another group coverage (insured or uninsured)[~~ or, in the case of conversion health insurance coverage, the applicant is covered by substantially similar benefits by another individual hospital, surgical, or medical expenses insurance policy; or~~

~~(c) In the case of conversion health insurance coverage, the issuance of conversion health insurance coverage would cause the applicant to be overinsured according to the insurer's standards, taking into account that the applicant is or could be covered by similar benefits pursuant to or in accordance with the requirements of any statute and the individual coverage described in paragraph (b) of this subsection~~].

(7)[~~(9)~~] Notice of the right to continue group health insurance coverage [~~and the right to conversion health insurance coverage~~]shall be given as follows:

(a) 1. For group policies delivered, issued for delivery, or renewed after ***the effective date of this Act***[~~July 15, 1986~~], the insurer shall give written notice of the right to continue group health insurance coverage [~~and the right to conversion health insurance coverage~~]to any group member entitled to continue coverage [~~or to conversion coverage~~]under this section upon notice from the group policyholder that the group member has terminated membership in the group[~~ or upon termination of continued group health insurance coverage~~]. The thirty-one (31) day period of ***subsection***[~~subsections~~] (2)(b)[~~ and (5)(b)~~] of this section shall not begin to run until the notice required by this paragraph is mailed or delivered to the last known address of the group member;[~~ and~~

~~2. Upon replacement of a group policy, the replacing insurer shall determine if there are group members who were covered under the previous group policy who are not covered under the replacing group policy. The~~

~~replacing insurer shall by writing notify the insurer which issued the previous group policy of such lack of coverage and the insurer which issued the previous group policy shall issue the notice required by paragraph (a) of this subsection;]~~

(b) If a group member becomes entitled to obtain continued health insurance coverage***,***~~[or conversion health insurance coverage]~~ pursuant to this section***,*** and ***the insurer fails to give the group member written notice of the right,***~~[if such group member has not been given written notice of these rights]~~ pursuant to this subsection, ***the insurer shall give written notice to the former group member as soon as practicable after being notified of the insurer's failure to give written notice of continuation rights to the group member and*** such group member shall have an additional period within which to exercise continuation or conversion rights***. The additional period shall expire sixty (60) days after written notice is received from the insurer.*** ~~[as follows:~~

~~1. The additional period shall expire fifteen (15) days after the group member is given notice, but in no event shall the additional period extend beyond sixty (60) days after the expiration of the thirty-one (31) day period following termination from the group or termination of group coverage;~~

~~2.~~ ~~]~~Written notice delivered or mailed to the last known address of the group member shall constitute the giving of notice for the purpose of this paragraph***.***~~[; and~~

~~3.~~ ~~]~~ If a group member makes application and pays the premium for continued health insurance coverage~~[or conversion health insurance coverage]~~ within the additional period allowed by this paragraph, the effective date of continued health insurance coverage shall be the date of termination from the group***. However, nothing in this subsection shall require an insurer to give notice or provide continuation coverage to a former group member ninety (90) days after termination of the former group member's group coverage.***~~[and the effective date of conversion health insurance coverage shall be the date of termination of group health insurance coverage.~~

~~(10) Before a group policy may be replaced, the employer shall give at least thirty (30) days' written notice by certified mail to any employee covered under the replaced policy who will not be covered under the new policy.]~~

Section 14. KRS 304.18-126 is amended to read as follows:

(1) ***An insurer offering group health insurance, as defined in KRS 304.18-020,***~~[A group policy]~~ shall provide ***for an***~~[a reasonable provision for]~~ extension of benefits in the event of ***a member's*** total disability ***or confinement in a facility for which benefits would otherwise be payable*** at the date of discontinuance of the group policy or contract in accordance with this section.

(2) If the group policy provides benefits for loss of time from employment or specific indemnity during hospital confinement, discontinuance of the policy during a disability shall have no effect on benefits payable for that disability or confinement.

(3) In the case of hospital or medical expense coverages, a reasonable extension of benefits or accrued liability shall be required. A provision shall be considered reasonable ***if***:

(a) Under major medical coverages***,***~~[if]~~ it provides an extension ***until the earlier of one (1) of the following:***

1. ~~[of]~~At least twelve (12) months;~~[and]~~

2. Until the total disability ceases;

3. Until maximum benefits under the policy are received; or

4. Until coverage for the total disability has been obtained under another group policy.

(b) Under other types of hospital or medical expense coverages***,***~~[if]~~ it provides an extension of at least ninety (90) days for expenses incurred during the period of ***total*** disability or ***confinement or*** incurred within a period of at least ninety (90) days starting with a specific event which occurred while coverage was in force, such as an accident.

(4) ***Coverage for a total disability shall not be considered to have been obtained under a succeeding plan, whether it be fully insured or self-insured, if the succeeding plan excludes coverage for a confinement covered under the prior plan's extension of benefits provision.***

(5) Any applicable extension of benefits or accrued liability shall be described in the group policy as well as in group insurance certificates~~[. The benefits payable during the period of extension or accrued liability may be subject to the group policy's regular benefit limits, such as benefits ceasing at exhaustion of a benefit period or a maximum benefit limitation]~~.

Section 15. KRS 304.18-127 is amended to read as follows:

(1) This section shall indicate the insurer responsible for liability in those instances in which one (1) insurer's group policy replaces the group policy of another insurer.

(2) The prior insurer shall remain liable only to the extent of its accrued liabilities, ***extension***~~[extensions]~~ of benefits, and for persons who are under continued group health insurance coverage pursuant to KRS 304.18-110 at the time the group policy terminates. The position of the prior insurer shall be the same whether the group policyholder secures replacement coverage from a new insurer, self insures, or forgoes the provision of a group policy, except that termination of continued group health insurance coverage shall occur in accordance with KRS 304.18-110.

(3) The liability of a succeeding insurer shall be as follows:

(a) Each person who is eligible for coverage~~[in accordance with the succeeding insurer's plan of benefits, in respect to classes eligible, actively at work, and nonconfinement rules,]~~ shall be covered by that insurer's plan ***on the effective date of coverage and in accordance with KRS 304.17A-200***~~[of benefits]~~.

(b) ***If a person, who is eligible for coverage, is confined as of the effective date of coverage under the succeeding insurer's plan and the succeeding insurer has a nonconfinement rule, the succeeding insurer is not responsible for the cost of the person's confinement to the extent that the confinement is covered by a prior insurer's extension of benefits provision, in accordance with Section 14 of this Act***~~[Each person not covered under the succeeding insurer's plan of benefits in accordance with paragraph (a) of this subsection shall nevertheless be covered by the succeeding insurer in accordance with the following provisions if the person was validly covered, including benefit extensions, under the prior insurer on the date of termination of the prior insurer's group policy and if the person is a member of the class or classes of persons eligible for coverage under the succeeding insurer's plan. Any reference in the following provisions to a person who was or was not totally disabled shall be a reference to that person's status immediately prior to the date the succeeding insurer's coverage becomes effective.~~

~~1. The minimum level of benefits to be provided by the succeeding insurer shall be the applicable level of benefits of the prior insurer's group policy reduced by any benefits payable by the prior insurer under its group policy.~~

~~2. Coverage shall be provided by the succeeding insurer until at least the earliest of the following dates:~~

~~a. The date the person becomes insured according to paragraph (a) of this subsection;~~

~~b. For each type of coverage, the date the person's coverage would terminate in accordance with the succeeding insurer's group policy provisions applicable to individual termination of coverage; or~~

~~c. In the case of a person who was totally disabled and the type of coverage is one for which KRS 304.18-126 requires an extension of accrued liability, the end of extension of accrued liability which is required of the prior insurer by KRS 304.18-126, or, if the prior insurer's group policy is not subject to KRS 304.18-126, would have been required of that insurer had its group policy been subject to KRS 304.18-126 at the time the prior insurer's group policy was discontinued and replaced by the succeeding insurer's plan.~~

~~(c) In the case of a pre-existing conditions limitation in the succeeding insurer's group policy, the level of benefits applicable to pre-existing conditions of persons becoming covered by the succeeding insurer's plan in accordance with this subsection during the period of time this limitation applies under the succeeding insurer's group policy shall be the lesser of:~~

~~1. The benefits of the succeeding insurer's group policy determined without application of the pre-existing conditions limitation; or~~

~~2. The benefits of the prior insurer's group policy]~~.

(c)~~[(d)]~~The succeeding insurer, in applying any deductibles or waiting periods in its plan, shall give credit for the satisfaction or partial satisfaction of the same or similar provisions under a prior group policy. In the case of deductible provisions, the credit shall apply for the same or overlapping benefit periods and shall be given for expenses actually incurred and applied against the deductible provisions of the prior insurer's group policy during the ninety (90) days preceding the effective date of the succeeding insurer's group policy, but only to the extent these expenses are recognized under the terms of the succeeding insurer's group policy and are subject to similar deductible provisions.

(d)~~[(e)]~~If a determination of the prior insurer's benefit is required by the succeeding insurer, at the succeeding insurer's request the prior insurer shall furnish a statement of the benefits available or pertinent information sufficient to permit verification of the benefit determination or the determination itself by the succeeding insurer. For purposes of this section, benefits of the prior insurer's group policy shall be determined in accordance with all of the definitions, conditions, and covered expense provisions of the prior insurer's group policy rather than those of the succeeding insurer's group policy. The benefit determination shall be made as if coverage had not been replaced by the succeeding insurer.

Section 16. KRS 304.40-075 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Charitable health care provider" means any person, agency, clinic, or facility licensed or certified by the Commonwealth, or under a comparable provision of law of another state, territory, district, or possession of the United States, engaged in the rendering of medical care without compensation or charge, and without expectation of compensation or charge, to the individual, without payment or reimbursement by any governmental agency or insurer. "Charitable health care provider" only means those persons, agencies, clinics, or facilities engaging in primary care medicine and performing no invasive or surgical procedures;

(b) "Medical malpractice insurer" means every person or entity engaged as principal and as indemnitor, surety, or contractor in the business of entering into contracts to provide medical professional liability insurance, except an entity in the business of providing such medical professional liability insurance only to itself or its affiliated subsidiary, or parent corporation, or subsidiaries of its parent corporations; and

(c) "Medical professional liability insurance" means insurance to cover liability incurred as a result of the hands-on providing of medical professional services directly to patients by an insured in the treatment, diagnosis, or prevention of patient illness, disease, or injury.

(2) Insurers offering medical professional liability insurance in the Commonwealth shall make available, as a condition of doing business in the Commonwealth pursuant to this chapter, medical professional liability insurance for charitable health care providers and persons volunteering to perform medical services for charitable health care providers, with the same coverage limits made available to its other insureds.

(3) (a) Premiums for policies issued under subsection (2) of this section shall be paid by the Commonwealth from the general fund upon written application for payment of the premium by the health care provider wishing to offer charitable services.

(b) The Department of Insurance shall, through promulgation of administrative regulations pursuant to KRS Chapter 13A, establish reasonable guidelines for the registration of charitable health care providers. The guidelines shall require the provider to supply, at a minimum, the following information:

1. Name and address of the charitable health care provider;
2. Number of employees of the charitable health care provider who will be rendering medical care without compensation or charge and without expectation of compensation or charge, and who will be covered under the policy issued under subsection (2) of this section;
3. The expected number of patients to be provided charitable health care services in the year for which the insurer will offer malpractice coverage;
4. The charitable health care provider's acknowledgment that the insurer's risk management and loss prevention policies shall be followed;[~~ and~~]
5. A copy of the registration filed with the Cabinet for Health Services under KRS 216.941***; and***
6. ***A copy of the medical malpractice policy, declaration page, and any other documentation the commissioner may deem necessary to determine the proper amount of premiums and taxes to be reimbursed***.

(c) Persons insured under this section shall be required to comply with the same risk management and loss prevention policies which the insurer imposes upon its other insureds.

(d) Any premium refund for medical professional liability insurance issued under subsection (2) of this section received for any reason by the charitable health care provider shall be promptly remitted to the department for transmittal to the general fund.

(4) This section shall only apply to charitable health care providers and persons volunteering to perform medical services for charitable health care providers who are not otherwise covered by any policy of medical professional liability insurance for the charitable health care services provided, and that meet the terms for eligibility established pursuant to this section.

(5) Coverage offered to charitable health care providers and persons volunteering at charitable health care providers shall be at least as broad as the coverage offered by the insurer to other noncharitable health care providers or facilities and to medical professionals working at noncharitable health care facilities.

(6) The Department of Insurance shall retrospectively review on an annual basis the premiums paid pursuant to this section as opposed to the expenses incurred by the insurers covering risks under this section to determine if the profits made for those risks were consistent with reasonable loss ratio guidelines. If the determination is made that the profits were not consistent with reasonable loss ratio guidelines, the Department of Insurance shall determine the amount of the premiums to be refunded to the Commonwealth.

(7) The Cabinet for Health Services shall make available to the Department of Insurance information on its registration of charitable health care providers for the purpose of obtaining medical malpractice insurance.

(8) The Department of Insurance shall not provide medical malpractice insurance as specified in subsection (3)(a) of this section to a charitable health care provider who has not registered with the Cabinet for Health Services under KRS 216.941.

Section 17. The following KRS sections are repealed:

304.17A-137 Coverage for prescribed cancer drugs not approved by the Federal Food and Drug Administration for cancer treatment -- Review panel for off-label uses.

304.17A-260 Approval to reenter state for insurer that ceased doing business after July 15, 1995, and before April 10, 1998.

The Committee Substitute to **HB 391** is as follows:

HB 391, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17A-005 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

(1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;

(2) "At the time of enrollment" means:

(a) At the time of application for an individual, an association that actively markets to individual members, and an employer-organized association that actively markets to individual members; and

(b) During the time of open enrollment or during an insured's initial or special enrollment periods for group health insurance;

(3) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in KRS 304.17A-0954, with similar case characteristics for health benefit plans with the same or similar coverage;

(4) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3);

(5) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33);

(6) "COBRA" means any of the following:

(a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

(b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than sec. 1169); or

(c) 42 U.S.C. sec. 300bb;

(7) (a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:

1. A group health plan;
2. Health insurance coverage;
3. Part A or Part B of Title XVIII of the Social Security Act;
4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;
5. Chapter 55 of Title 10, United States Code;
6. A medical care program of the Indian Health Service or of a tribal organization;
7. A state health benefits risk pool;
8. A health plan offered under Chapter 89 of Title 5, United States Code;
9. A public health plan, as defined in regulations; or
10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)).

(b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection (11) of this section;

(8) "Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. secs. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. secs. 1396 et seq.) and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in KRS 304.17A-240(2)(a), (b), and (c);

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;

(9) "Employer-organized association" means any of the following:

(a) Any entity that was qualified by the commissioner as an eligible association prior to April 10, 1998, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;

(b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled; or

(c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

Except as provided in KRS 304.17A-200, 304.17A.210, and 304.17A-220, no employer-organized association shall be treated as an association, small group, or large group under this subtitle;

(10) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;

(11) "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:

(a) Coverage only for accident, or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Automobile medical payment insurance;

(f) Credit-only insurance;

(g) Coverage for on-site medical clinics;

(h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;

(i) Limited scope dental or vision benefits;

(j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;

(k) Such other similar, limited benefits as are specified in administrative regulations;

(l) Coverage only for a specified disease or illness;

(m) Hospital indemnity or other fixed indemnity insurance;

(n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;

(o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and

(p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan;

(12) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);

(13) "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals under KRS 304.17A-400 to 304.17A-480;

(14) "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that provides health benefits to a guaranteed acceptance program qualified individual and is eligible for assessment and refunds under the guaranteed acceptance program under KRS 304.17A-400 to 304.17A-480;

(15) "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;

(16) "Guaranteed acceptance program qualified individual" means an individual who, on or before December 31, 2000:

(a) Is not an eligible individual;

(b) Is not eligible for or covered by other health benefit plan coverage or who is a spouse or a dependent of an individual who:

1. Waived coverage under KRS 304.17A-210(2); or

2. Did not elect family coverage that was available through the association or group market;

(c) Within the previous three (3) years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high-cost condition, or is a high risk individual as defined by the underwriting criteria applied by an insurer under the alternative underwriting mechanism established in KRS 304.17A-430(3);

(d) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and

(e) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:

1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;

2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or

3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;

(17) "Guaranteed acceptance plan supporting insurer" means either an insurer, on or before December 31, 2000, that is not a guaranteed acceptance plan participating insurer or is a stop loss carrier, on or before December 31, 2000, provided that a guaranteed acceptance plan supporting insurer shall not include an employer-sponsored self-insured health benefit plan exempted by ERISA;

(18) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code***, or limited health service benefit plans***;

(19) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(b) Chiropractors licensed under KRS Chapter 312;

(c) Dentists licensed under KRS Chapter 313;

(d) Optometrists licensed under KRS Chapter 320;

(e) Physician assistants regulated under KRS Chapter 311;

(f) ***Advanced registered*** nurse practitioners licensed under KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;

(20) (a) "High-cost condition," pursuant to the Kentucky Guaranteed Acceptance Program, means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with KRS 304.17A-280, but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.

(b) The commissioner by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using:

1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and

2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the commissioner, the scoring scale for which shall be established by the commissioner.

(c) The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, and Wilson's disease;

(21) "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;

(22) "Individual market" means the market for the health insurance coverage offered to individuals other than in connection with a group health plan;

(23) "Insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;

(24) "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums;

(25) ***"Kentucky Access" has the meaning provided in KRS 304.17B-001(17);***

(26) "Large group" means:

(a) An employer with fifty-one (51) or more employees; or

(b) An affiliated group with fifty-one (51) or more eligible members;

(27)[~~(26)~~] "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards for furnishing a comprehensive set of health care services and financial incentives for covered persons using the participating providers and procedures provided for in the plan;

(28)[~~(27)~~] "Market segment" means the portion of the market covering one (1) of the following:

(a) Individual;

(b) Small group;

(c) Large group; or

(d) Association;

(29)[~~(28)~~] "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;

(30)[~~(29)~~] "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;

(31)[~~(30)~~] "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;

(32)[~~(31)~~] "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;

(33)[~~(32)~~] "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;

(34)[~~(33)~~] "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;

(35)[~~(34)~~] "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year;

(36)[~~(35)~~] "Small group" means:

(a) A small employer with two (2) to fifty (50) employees; or

(b) An affiliated group or association with two (2) to fifty (50) eligible members; and

(37)[~~(36)~~] "Standard benefit plan" means the plan identified in KRS 304.17A-250.

(38)[~~(37)~~] "Telehealth" has the meaning provided in KRS 311.550.

Section 2. KRS 304.17A-080 is amended to read as follows:

(1) There is hereby created and established a Health Insurance Advisory Council whose duties shall be to review and discuss with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of nine (9) members: the commissioner plus eight (8) persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The eight (8) persons appointed by the Governor with the advice of the commissioner shall be:

(a) Two (2) representatives of insurers currently offering health benefit plans in the state;

(b) Two (2) practicing health care providers;

(c) Two (2) representatives of purchasers of health benefit plans; and

(d) Two (2) representatives of agents.

(3) The council shall:

(a) Review and discuss the design of the standard health benefit plan;

(b) Review and discuss the rate-filing process for all health benefit plans;

(c) Review and discuss the administrative regulations concerning this subtitle to be promulgated by the department;

(d) Make recommendations on high-cost conditions as provided in ***Section 7 of this Act***[~~subsection (5) of this section~~];

(e) Advise the Department of Insurance concerning the Department of Insurance's separation plan for the division of duties and responsibilities between the operation of the Department of Insurance and the operation of Kentucky Access;

(f) Review and discuss issues that impact Kentucky Access; and

(g) Review and discuss other issues at the request of the commissioner.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

[~~(5) Prior to January 1, 2001, no less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established by the commissioner under KRS 304.17A-005(20) and 304.17A-280 and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes by administrative regulation the commissioner deems appropriate. The council, in making recommendations, and the commissioner, in making changes, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions. On or after January 1, 2001, no less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established by the Department for Kentucky Access and report to the commissioner any and all recommended changes.~~

~~(6) For each calendar year that the Kentucky Guaranteed Acceptance Program is operating, every insurer shall report to the commissioner and the Health Insurance Advisory Council, in the form and at the time as the commissioner by administrative regulation may specify, information that the commissioner deems necessary for the council and commissioner to evaluate the list of high-cost conditions as required under this section.~~]

Section 3. KRS 304.17A-095 is amended to read as follows:

(1) (a) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan to any market segment other than a large group shall, before use thereof, file with the commissioner its rates, fees, dues, and other charges paid by insureds, members, enrollees, or subscribers~~,~~***. The insurer***[~~,~~] shall ***also*** submit a copy of the filing to the Attorney General[~~,~~] and shall comply with the provisions of this section. The insurer shall adhere to its rates, fees, dues, and other charges as filed with the commissioner. The insurer ***shall submit a new filing to reflect any material change to the previously filed and approved rate filing. For all other changes, the insurer shall submit an amendment to a previously approved rate filing***[~~may submit new filings from time to time as it deems proper~~].

(b) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan to a large group as defined in KRS 304.17A-005 shall file the rating methodology with the commissioner and shall submit a copy of the filing to the Attorney General.

(2) (a) A rate filing under this section may be used by the insurer on and after the date of filing with the commissioner prior to approval by the commissioner. A rate filing shall be approved or disapproved by the commissioner within sixty (60) days after the date of filing. Should sixty (60) days expire after the commissioner receives the filing before approval or disapproval of the filing, the filing shall be deemed approved.[~~ The commissioner may hold a hearing within sixty (60) days after receiving a filing containing a rate increase. Not less than thirty (30) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearing. The Attorney General may participate as a health insurance consumer intervenor and be considered a party to the hearing.~~

~~(b) The commissioner shall hold a hearing upon written request, including the reasons for the request, by the Attorney General, provided the request is in accordance with subsection (3) of this section.~~

~~(c) The commissioner shall hold a hearing, unless waived by the health insurer, before ordering a retroactive reduction of rates.~~

~~(d) The hearing shall be a public hearing conducted in accordance with KRS Chapter 13B.~~]

(b)[~~(e)~~]In the circumstances of a filing that has been deemed approved ***or has been disapproved*** under paragraph (a) of this subsection, the commissioner shall have the authority to order a retroactive reduction of rates to a reasonable rate if after applying the factors in subsection (3) of this section the commissioner determines that the rates were unreasonable. If the commissioner seeks to order a retroactive reduction of rates and more than one (1) year has passed since the date of the filing, the commissioner shall consider the reasonableness of the rate over the entire period during which the filing has been in effect.

(3) In approving or disapproving a filing under this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium or fee charged;

(b) Whether the fees paid to providers for the covered services are reasonable in relation to the premium or fee charged;

(c) Previous premium rates or fees for the policies or contracts to which the filing applies;

(d) The effect of the rate or rate increase on policyholders, enrollees, and subscribers;

(e) Whether the rates, fees, dues, or other charges are excessive, inadequate, or unfairly discriminatory; and

(f) The effect on the rates of any assessment made under KRS 304.17B-021; and

(g) Other factors as deemed relevant by the commissioner.

(4) The rates for each policyholder shall be guaranteed for twelve (12) months at the rate in effect on the date of issue or date of renewal.

(5) At any time the commissioner, after a public hearing for which at least thirty (30) days' notice has been given, may withdraw approval of rates or fees previously approved under this section and may order an appropriate refund or future premium credit to policyholders, enrollees, and subscribers if the commissioner determines that the rates or fees previously approved are in violation of this chapter.

(6) Notwithstanding subsection (2)~~[(a) to (e)]~~ of this section, premium rates may be used upon filing with the department of a policy form not previously used if the filing is accompanied by the policy form filing and a minimum loss ratio guarantee. Insurers may use the filing procedure specified in this subsection only if the affected policy forms disclose the benefit of a minimum loss ratio guarantee. An insurer may not elect to use the filing procedure in this subsection for a policy form that does not contain the minimum loss ratio guarantee. Insurers may not amend policy forms to provide for a minimum loss ratio guarantee. If an insurer elects to use the filing procedure in this subsection for a policy form or forms, the insurer shall not use a filing of premium rates that does not provide a minimum loss ratio guarantee for that policy form or forms.

(a) The minimum loss ratio shall be in writing and shall contain at least the following:

1. An actuarial memorandum specifying the expected loss ratio that complies with the standards as set forth in this subsection;

2. A statement certifying that all rates, fees, dues, and other charges are not excessive, inadequate, or unfairly discriminatory;

3. Detailed experience information concerning the policy forms;

4. A step-by-step description of the process used to develop the experience loss ratio, including demonstration with supporting data;

5. A guarantee of a specific lifetime minimum loss ratio, that shall be greater than or equal to the following, taking into consideration adjustments for duration as set forth in administrative regulations promulgated by the commissioner:

a. Seventy percent (70%) for policies issued to individuals or for certificates issued to members of an association that does not offer coverage to small employers;

b. Seventy percent (70%) for policies issued to small groups of two (2) to ten (10) employees or for certificates issued to members of an association that offers coverage to small employers; and

c. Seventy-five percent (75%) for policies issued to small groups of eleven (11) to fifty (50) employees;

6. A guarantee that the actual Kentucky loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the minimum loss ratio standards referred to in subparagraph 5. of this paragraph, adjusted for duration;

7. A guarantee that the actual Kentucky lifetime loss ratio shall meet or exceed the minimum loss ratio standards referred to in subparagraph 5. of this paragraph; and

8. If the annual earned premium volume in Kentucky under the particular policy form is less than two million five hundred thousand dollars ($2,500,000), the minimum loss ratio guarantee shall be based partially on the Kentucky earned premium and other credibility factors as specified by the commissioner.

(b) The actual Kentucky minimum loss ratio results for each year at issue shall be independently audited at the insurer's expense and the audit shall be filed with the commissioner not later than one hundred twenty (120) days after the end of the year at issue. The audit shall demonstrate the calculation of the actual Kentucky loss ratio in a manner prescribed as set forth in administrative regulations promulgated by the commissioner.

(c) The insurer shall refund premiums in the amount necessary to bring the actual loss ratio up to the guaranteed minimum loss ratio.

(d) A Kentucky policyholder affected by the guaranteed minimum loss ratio shall receive a portion of the premium refund relative to the premium paid by the policyholder. The refund shall be made to all Kentucky policyholders insured under the applicable policy form during the year at issue if the refund would equal ten dollars ($10) or more per policy. The refund shall include statutory interest from July 1 of the year at issue until the date of payment. Payment shall be made not later than one hundred eighty (180) days after the end of the year at issue.

(e) Premium refunds of less than ten dollars ($10) per insured shall be aggregated by the insurer and paid to the Kentucky State Treasury.

(f) None of the provisions of subsections (2) and (3) of this section shall apply if premium rates are filed with the department and accompanied by a minimum loss ratio guarantee that meets the requirements of this subsection. Such filings shall be deemed approved. Each insurer paying a risk assessment under KRS 304.17B-021 may include the amount of the assessment in establishing premium rates filed with the commissioner under this section. The insurer shall identify any assessment allocated.

(g) The policy form filing of an insurer using the filing procedure with a minimum loss ratio guarantee will disclose to the enrollee, member, or subscriber as prescribed by the commissioner an explanation of the lifetime loss ratio guarantee, and the actual loss ratio, and any adjustments for duration.

(h) The insurer who elects to use the filing procedure with a minimum loss ratio guarantee shall notify all policyholders of the refund calculation, the result of the refund calculation, the percent of premium on an aggregate basis to be refunded if any, any amount of the refund attributed to the payment of interests, and an explanation of amounts less than ten dollars ($10).

(7) The commissioner may by administrative regulation prescribe any additional information related to rates, fees, dues, and other charges as they relate to the factors set out in subsection (3) of this section that he or she deems necessary and relevant to be included in the filings and the form of the filings required by this section. When determining a loss ratio for the purposes of loss ratio guarantee, the insurer shall divide the total of the claims incurred, plus preferred provider organization expenses, case management and utilization review expenses, plus reinsurance premiums less reinsurance recoveries by the premiums earned less state and local premium taxes less other assessments. For purposes of determining the loss ratio for any loss ratio guarantee pursuant to this section, the commissioner may examine the insurer's expenses for preferred provider organization, case management, utilization review, and reinsurance used by the insurer in calculating the loss ratio guarantee for reasonableness. Only those expenses found to be reasonable by the commissioner may be used by the insurer for determining the loss ratio for purposes of any loss ratio guarantee.

(8) (a) The commissioner shall hold a hearing upon written request by the Attorney General. The written request shall be based upon one (1) or more of the reasons set out in subsection (3) of this section and shall state the applicable reasons.

(b) An insurer may request a hearing, pursuant to KRS 304.2-310, with regard to any action taken by the commissioner under this section as to the disapproval of rates or an order of a retroactive reduction of rates.

(c) The hearing shall be a public hearing conducted in accordance with KRS 304.2-310.

Section 4. KRS 304.17A-150 is amended to read as follows:

(1) On and after July 15, 1995, it is an unfair trade practice for an insurer, agent, broker, or any other person in the business of marketing and selling health plans, to commit or perform any of the following acts:

(a) Encourage individuals or groups to refrain from filing an application for coverage with the insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(b) Encourage or direct individuals or groups to seek coverage from another insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(c) Encourage an employer to exclude an employee from coverage.

The provisions of this subsection shall not apply to information provided regarding the established geographic service area of an insurer.

(2) It is an unfair trade practice for an insurer to compensate an agent, broker, or any other person in the business of marketing and selling health plans on the basis of the health status, claims experience, industry, occupation, or geographic location of the insured or prospective insured except as provided in KRS 304.17B-001 to 304.17B-031.

(3) It shall constitute an unfair trade practice for any insurer, insurance agent, or third-party administrator to refer an individual[~~ employee~~] to Kentucky Access, or to arrange for an individual[~~ employee~~] to apply to Kentucky Access, for the purpose of separating an ***individual***[~~employee~~] from group health insurance coverage***, except that individuals eligible for group health insurance coverage provided by a small employer or through an employer-organized association health insurance plan shall also be eligible for Kentucky Access if denied coverage by the insurer***[~~ provided in connection with the individual's employment~~].

(4) It is an unfair trade practice for an insurer that offers multiple health benefit plans to require a health care provider, as a condition of participation in a health benefit plan of the insurer, to participate in any of the insurer's other health benefit plans. In addition to the proceedings and penalties provided in this chapter for violation of this provision, a contract provision violating this subsection is void.

(5) It is an unfair trade practice for an insurer not to compute an insured's coinsurance or cost sharing on the basis of the amount actually received by a health-care provider from the insurer.

(6) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any insurer that fails to pay an assessment under KRS 304.17B-021. As an alternative, the commissioner may levy a civil penalty on any member insurer that fails to pay the assessment when due. The civil penalty shall not exceed five percent (5%) of the unpaid assessment per month, but no civil penalty shall be less than one hundred dollars ($100) per month.

(7) The remedy provided by KRS 304.12-120 shall be available for conduct proscribed by this section.

(8) It is an unfair claims settlement practice for any person to make claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made in instances in which the insured has a liability under the policy beyond his or her copayment or deductible.

Section 5. KRS 304.17A-240 is amended to read as follows:

(1) Except as provided in this section, an insurer shall renew or continue in force a health benefit plan at the option of the insured.

(2) An insurer may nonrenew or discontinue a health benefit plan based only on one (1) or more of the following:

(a) The insured has failed to pay premiums or contributions in accordance with the terms of the plan or the insurer has not received timely premium payments;

(b) The insured has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage;

(c) The insured has engaged in intentional and abusive noncompliance with material provisions of the health benefit plan;

(d) The insurer is ceasing to offer coverage in the individual or group market in accordance with subsection (3) of this section;

(e) In the case of an insurer that offers health benefit plans through a network plan, the individual no longer resides, lives, or works in the service area or in an area for which the insurer is authorized to do business, but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals, or there is no longer any enrollee in connection with the group plan who resides, lives, or works in the service area of the insurer;[~~ or~~]

(f) In the case of a health benefit plan that is made available only through one (1) or more bona fide associations, the membership of the individual or employer in the association on the basis of which the coverage is provided ceases, but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals***; or***

(g) In the case of a health benefit plan issued to a group, the group no longer meets participation requirements or contribution requirements as established by the insurer.

(3) (a) In any case in which an insurer decides to discontinue offering a particular type of health benefit plan, coverage of the type may be discontinued by the insurer upon approval by the commissioner only if:

1. The insurer provides notice to each insured provided coverage of this type in the market of the discontinuation at least ninety (90) days prior to the date of the discontinuation of the coverage;

2. The insurer offers, to each insured provided coverage of this type, the option to purchase any other health benefit plan currently of that type being offered by the insurer in that market; and

3. In exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph 2. of this paragraph, the insurer acts uniformly without regard to any health status-related factor of enrolled insureds or insureds who may become eligible for coverage.

(b) 1. Subject to paragraph (a)3. of this subsection, in any case in which an insurer elects to discontinue offering all health benefit plans in Kentucky, health benefit plans may be discontinued by the insurer only if:

a. The insurer provides notice to the commissioner and to each insured of the discontinuation at least one hundred eighty (180) days prior to the date of the expiration of the coverage; and

b. All health benefit plans issued or delivered for issuance in Kentucky are discontinued and coverage under the health benefit plans is not renewed.

2. In the case of a discontinuation under subparagraph 1. of this paragraph, the insurer may not provide for the issuance of any health benefit plans in Kentucky during the five (5) year period beginning on the date of the discontinuation of the last health benefit plan not so renewed.

(4) At the time of coverage renewal, an insurer may modify, with approval of the commissioner, the health benefit plan for a policy form so long as the modification is consistent with this chapter and effective on a uniform basis among all individuals with that policy form.

(5) In applying this section in the case of a health benefit plan that is made available by an insurer only through one (1) or more associations, a reference to an individual is deemed to include a reference to an association of which the individual is a member, and a reference to an employer member is deemed to include a reference to the employer.

Section 6. KRS 304.17A-669 is amended to read as follows:

(1) Nothing in KRS 304.17A-660 to 304.17A-669 shall be construed as mandating coverage for mental health conditions.

(2) The following shall be exempt from the provisions of KRS 304.17A-660 to 304.17A-669:

- (a) A group health benefit plan covering fewer than ***fifty-one (51)***~~[fifty (50)]~~ employees;
- (b) An individual health benefit plan; and
- (c) An employer-organized association as defined in KRS 304.17A-005.

SECTION 7. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established under KRS 304.17B-001(14) and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes by administrative regulation the commissioner deems appropriate. The council, in making recommendations, and the commissioner, in making changes, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions.

(2) The commissioner may by administrative regulation add to or delete from the list of high-cost conditions for Kentucky Access.

Section 8. KRS 304.17B-015 is amended to read as follows:

(1) Any individual who is an eligible individual is eligible for coverage under Kentucky Access, except as specified in paragraphs (a), (b), (d), and (e) of subsection (4) of this section.

(2) Any individual who is not an eligible individual who has been a resident of the Commonwealth for at least twelve (12) months immediately preceding the application for Kentucky Access coverage is eligible for coverage under Kentucky Access if one (1) of the following conditions is met:

- (a) The individual has been rejected by at least ***one (1) insurer***~~[two (2) insurers]~~ for coverage of a health benefit plan that is substantially similar to Kentucky Access coverage;
- (b) The individual has been offered coverage substantially similar to Kentucky Access coverage at a premium rate greater than the Kentucky Access premium rate at the time of enrollment or upon renewal; or
- (c) The individual has a high-cost condition listed in KRS 304.17B-001.

(3) A Kentucky Access enrollee whose premium rates exceed claims for a three (3) year period shall be issued a notice of insurability. The notice shall indicate that the Kentucky Access enrollee has not had claims exceed premium rates for a three (3) year period and may be used by the enrollee to obtain insurance in the regular individual market.

(4) An individual shall not be eligible for coverage under Kentucky Access if:

- (a) The individual has, or is eligible for, on the ***effective*** date of ~~[application for]~~ coverage under Kentucky Access, substantially similar coverage under another contract or policy, unless the individual was issued coverage from a GAP participating insurer as a GAP qualified individual prior to January 1, 2001. A GAP qualified individual shall be automatically eligible for coverage under Kentucky Access without regard to the requirements of subsection (2) of this section. An individual who is ineligible for coverage pursuant to this paragraph shall not preclude the individual's spouse or dependents from being eligible for Kentucky Access coverage. As used in this paragraph, "eligible for" includes any individual who was eligible for coverage but waived that coverage. That individual shall be ineligible for Kentucky Access coverage through the period of waived coverage;
- (b) The individual is eligible for coverage under Medicaid or Medicare;
- (c) The individual previously terminated Kentucky Access coverage and twelve (12) months have not elapsed since the coverage was terminated, unless the individual demonstrates a good faith reason for the termination;
- (d) Except for covered benefits paid under the standard health benefit plan as specified in KRS 304.17B-019, Kentucky Access has paid two million dollars ($2,000,000) in covered benefits per individual. The maximum limit under this paragraph may be increased by the department; or
- (e) The individual is confined to a public institution or incarcerated in a federal, state, or local penal institution or in the custody of federal, state, or local law enforcement authorities, including work release programs.

(5) The coverage of any person who ceases to meet the requirements of this section ***or the requirements of any administrative regulation promulgated under this subtitle*** may be terminated.

SECTION 9. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Conversion health insurance coverage" means a health benefit plan meeting the requirements of this section and regulated in accordance with Subtitles 17 and 17A of this chapter;

(b) "Group policy" has the meaning provided in Section 10 of this Act; and

(c) "Medicare" has the meaning provided in Section 10 of this Act.

(2) An insurer providing group health insurance coverage shall offer a conversion health insurance policy, by written notice, to any group member terminated under the group policy for any reason. The insurer shall offer a conversion health insurance policy substantially similar to the group policy. The former group member shall meet the following conditions:

(a) The former group member had been a member of the group and covered under any health insurance policy offered by the group for at least three (3) months;

(b) The former group member must make written application to the insurer for conversion health insurance coverage not later than thirty-one (31) days after notice pursuant to subsection (5) of this section; and

(c) The former group member must pay the monthly, quarterly, semiannual, or annual premium, at the option of the applicant, to the insurer not later than thirty-one (31) days after notice pursuant to subsection (5) of this section.

(3) An insurer shall offer the following terms of conversion health insurance coverage:

(a) Conversion health insurance coverage shall be available without evidence of insurability and may contain a pre-existing condition limitation in accordance with KRS 304.17A-230;

(b) The premium for conversion health insurance coverage shall be according to the insurer's table of premium rates in effect on the latter of:

1. The effective date of the conversion policy; or

2. The date of application when the premium rate applies to the class of risk to which the covered persons belong, to their ages, and to the form and amount of insurance provided;

(c) The conversion health insurance policy shall cover the former group member and eligible dependents covered by the group policy on the date coverage under the group policy terminated.

(d) The effective date of the conversion health insurance policy shall be the date of termination of coverage under the group policy; and

(e) The conversion health insurance policy shall provide benefits substantially similar to those provided by the group policy, but not less than the minimum standards set forth in KRS 304.18-120 and any administrative regulations promulgated thereunder.

(4) Conversion health insurance coverage need not be granted in the following situations:

(a) On the effective date of coverage, the applicant is or could be covered by Medicare;

(b) On the effective date of coverage, the applicant is or could be covered by another group coverage (insured or uninsured) or, the applicant is covered by substantially similar benefits by another individual hospital, surgical, or medical expenses insurance policy; or

(c) The issuance of conversion health insurance coverage would cause the applicant to be overinsured according to the insurer's standards, taking into account that the applicant is or could be covered by similar benefits pursuant to or in accordance with the requirements of any statute and the individual coverage described in paragraph (b) of this subsection.

(5) Notice of the right to conversion health insurance coverage shall be given as follows:

(a) For group policies delivered, issued for delivery, or renewed after the effective date of this Act, the insurer shall give written notice of the right to conversion health insurance coverage to any former group member entitled to conversion coverage under this section upon notice from the group policyholder that the group member has terminated membership in the group, upon termination of the former group member's continued group health insurance coverage pursuant to Section 10 of this Act or COBRA as defined in subsection (6) of Section 1 of this Act, or upon termination of the group policy for any reason. The written notice shall clearly explain the former group member's right to a conversion policy.

(b) The thirty-one (31) day period of subsection (2)(b) of this section shall not begin to run until the notice required by this subsection is mailed or delivered to the last known address of the former group member.

(c) If a former group member becomes entitled to obtain conversion health insurance coverage, pursuant to this section, and the insurer fails to give the former group member written notice of the right, pursuant to this subsection, the insurer shall give written notice to the former group member as soon as practicable after being notified of the insurer's failure to give written notice of conversion rights to the former group member and such former group member shall have an additional period within which to exercise his conversion rights. The

additional period shall expire sixty (60) days after written notice is received from the insurer. Written notice delivered or mailed to the last known address of the former group member shall constitute the giving of notice for the purpose of this paragraph. If a former group member makes application and pays the premium, for conversion health insurance coverage within the additional period allowed by this paragraph, the effective date of conversion health insurance coverage shall be the date of termination of group health insurance coverage. However, nothing in this subsection shall require an insurer to give notice or provide conversion coverage to a former group member ninety (90) days after termination of the former group member's group coverage.

Section 10. KRS 304.18-110 is amended to read as follows:

(1) As used in this section:

(a) "Group policy" means group health insurance policies as defined in KRS 304.18-020 and blanket health insurance policies which the commissioner, in his discretion, designates as subject to this section, which:

1. Affect the rights of a Kentucky insured and bear a reasonable relation to Kentucky, regardless of whether delivered or issued for delivery in Kentucky;

2. Provide hospital or surgical expenses benefits, other than for a specific disease or accidental injury only; and

3. Are delivered, issued for delivery, or renewed after ***the effective date of this Act***[~~July 15, 1986~~];

(b) "Medicare" means Title XVIII of the United States Social Security Act as amended or superseded.

(2) Persons insured under group policies have the right upon termination of group membership to continue coverage for themselves and their dependents upon meeting the following conditions:

(a) The group member has been covered by the group policy or any group policy it replaced for at least three (3) months; and

(b) Notice is given to the insurer and payment of the group rate is made to the insurer***, by the group member,*** within thirty-one (31) days after notice pursuant to subsection ***(7)***[~~(9)~~] of this section.

(3) Continued group health insurance coverage shall terminate on the earlier of:

(a) The date eighteen (18) months after the date on which the group coverage would otherwise have terminated because of termination of group membership;

(b) If the group member fails to make timely payment of premium to the insurance company, the end of the period for which premium payment was made; or

(c) The date the group policy is terminated and is not replaced by another group policy within thirty-one (31) days.

(4) If a group policy is replaced, ***by a succeeding insurer,*** persons under the continued group health insurance shall remain ***covered under the prior insurer's***[~~under such coverage under the replaced~~] policy until it terminates in accordance with subsection (3) of this section.

(5) [~~Group members have the right upon termination of coverage under a group policy for any reason to have a conversion health insurance policy providing substantially similar benefits issued to the group member by the insurer upon meeting the following conditions:~~

~~(a) The group member has been covered by the group policy or any policy it replaced for at least three (3) months;~~

~~(b) The group member must make written application to the insurer for conversion health insurance coverage not later than thirty-one (31) days after notice pursuant to subsection (9) of this section; and~~

~~(c) The group member must pay the monthly, quarterly, semiannual, or annual premium, at the option of the applicant, to the insurer not later than thirty-one (31) days after notice pursuant to subsection (9) of this section.~~

~~(6) Terms of conversion health insurance coverage:~~

~~(a) Conversion health insurance coverage shall be available without evidence of insurability and shall contain no pre-existing condition limitations;~~

~~(b) The premium for conversion health insurance coverage shall be according to the insurer's table of premium rates in effect on the latter of:~~

~~1. The effective date of the converted policy; or~~

~~2. The date of application when the premium rate applies to the class of risk to which the covered persons belong, to their ages, and to the form and amount of insurance provided;~~

~~(c) The conversion health insurance policy shall cover the group member and eligible dependents covered by the group policy on the date coverage under the group policy terminated;~~

~~(d) The effective date of the conversion health insurance policy shall be the date of termination of coverage under the group policy; and~~

~~(e) The conversion health insurance policy shall provide benefits substantially similar to those provided by the group policy, but not less than the minimum standards set forth in KRS 304.18-120.~~

~~(7)~~]The right to continue group health insurance coverage ~~[and the right to conversion health insurance coverage]~~shall also be available:

(a) To the surviving spouse, at the death of the group member, with respect to the spouse and such children whose coverage under the group policy would terminate or terminates by reason of the death of the group member;

(b) To a child solely with respect to himself upon termination of membership in the group or his coverage by reason of operation of the limiting age of coverage under the group policy while covered as a dependent thereunder; or

(c) To a former spouse for himself and such children of whom he is awarded custody when coverage under the group policy would terminate or terminates by reason of termination of dependency as defined in the group policy and resulting from an order dissolving the marriage entered by a court of competent jurisdiction.

(6)~~[(8)]~~ Continuation of group health insurance coverage ~~[or conversion health insurance coverage]~~need not be granted in the following situations:

(a) ***On the effective date of coverage,*** the applicant is or could be covered by Medicare;

(b) ***On the effective date of coverage,*** the applicant is or could be covered by another group coverage (insured or uninsured)~~[or, in the case of conversion health insurance coverage, the applicant is covered by substantially similar benefits by another individual hospital, surgical, or medical expenses insurance policy; or~~

~~(c) In the case of conversion health insurance coverage, the issuance of conversion health insurance coverage would cause the applicant to be overinsured according to the insurer's standards, taking into account that the applicant is or could be covered by similar benefits pursuant to or in accordance with the requirements of any statute and the individual coverage described in paragraph (b) of this subsection]~~.

(7)~~[(9)]~~ Notice of the right to continue group health insurance coverage ~~[and the right to conversion health insurance coverage]~~shall be given as follows:

(a)~~[1.]~~ For group policies delivered, issued for delivery, or renewed after ***the effective date of this Act***~~[July 15, 1986]~~, the insurer shall give written notice of the right to continue group health insurance coverage ~~[and the right to conversion health insurance coverage]~~to any group member entitled to continue coverage ~~[or to conversion coverage]~~under this section upon notice from the group policyholder that the group member has terminated membership in the group~~[or upon termination of continued group health insurance coverage]~~. The thirty-one (31) day period of ***subsection***~~[subsections]~~ (2)(b)~~[and (5)(b)]~~ of this section shall not begin to run until the notice required by this paragraph is mailed or delivered to the last known address of the group member;~~[and~~

~~2. Upon replacement of a group policy, the replacing insurer shall determine if there are group members who were covered under the previous group policy who are not covered under the replacing group policy. The replacing insurer shall by writing notify the insurer which issued the previous group policy of such lack of coverage and the insurer which issued the previous group policy shall issue the notice required by paragraph (a) of this subsection;]~~

(b) If a group member becomes entitled to obtain continued health insurance coverage***,***~~[or conversion health insurance coverage]~~ pursuant to this section***,*** and ***the insurer fails to give the group member written notice of the right,***~~[if such group member has not been given written notice of these rights]~~ pursuant to this subsection, ***the insurer shall give written notice to the former group member as soon as practicable after being notified of the insurer's failure to give written notice of continuation rights to the group member and*** such group member shall have an additional period within which to exercise continuation or conversion rights***. The additional period shall expire sixty (60) days after written notice is received from the insurer.*** ~~[as follows:~~

~~1. The additional period shall expire fifteen (15) days after the group member is given notice, but in no event shall the additional period extend beyond sixty (60) days after the expiration of the thirty-one (31) day period following termination from the group or termination of group coverage;~~

~~2.~~]Written notice delivered or mailed to the last known address of the group member shall constitute the giving of notice for the purpose of this paragraph***.***~~[; and~~

~~3.~~] If a group member makes application and pays the premium for continued health insurance coverage~~[or conversion health insurance coverage]~~ within the additional period allowed by this paragraph, the effective date of continued health insurance coverage shall be the date of termination from the group***. However, nothing in this subsection shall require an insurer to give notice or provide continuation coverage to a former group member ninety (90) days after termination of the former group member's group coverage.***~~[and the effective date of conversion health insurance coverage shall be the date of termination of group health insurance coverage.~~

~~(10) Before a group policy may be replaced, the employer shall give at least thirty (30) days' written notice by certified mail to any employee covered under the replaced policy who will not be covered under the new policy.]~~

Section 11. KRS 304.18-126 is amended to read as follows:

(1) ***As used in this section, "disability" means the state of being hospitalized on the date of replacement coverage or coverage under an extension of benefits provision.***

(2) An insurer offering group health insurance, as defined in KRS 304.18-020,~~[A group policy]~~ shall provide ***for an***~~[a~~

~~reasonable provision for~~] extension of benefits in the event of ***a member's*** total disability at the date of discontinuance of the group policy or contract in accordance with this section.

(3)[~~(2)~~] ***Benefits payable under an extension of benefits shall be limited to the member's hospital confinement or period of total disability for a specific condition, injury, or illness that resulted in the member's total disability***[~~If the group policy provides benefits for loss of time from employment or specific indemnity during hospital confinement, discontinuance of the policy during a disability shall have no effect on benefits payable for that disability or confinement~~].

(4)[~~(3)~~] In the case of hospital or medical expense coverages, a reasonable extension of benefits or accrued liability shall be required. A provision shall be considered reasonable ***if***:

(a) Under major medical coverages ***for hospital confinement,***[~~ if~~] it provides an extension ***until the earlier of one (1) of the following:***

1. Discharge from the hospital confinement;

2. Until maximum benefits under the policy are received; or

3. [~~of~~]At least twelve (12) months***.***[~~; and~~]

(b) ***Under major medical coverage for a period of total disability, it provides an extension of benefits until the earlier of one (1) of the following:***

1. Until coverage for the total disability has been obtained under another group policy;

2. Until the total disability ceases;

3. Until maximum benefits under the policy are received; or

4. At least twelve (12) months.

(c) Under other types of hospital or medical expense coverages***,***[~~ if~~] it provides an extension of at least ninety (90) days for expenses incurred during the period of ***total*** disability or ***hospital confinement or*** incurred within a period of at least ninety (90) days starting with a specific event which occurred while coverage was in force, such as an accident.

(5)[~~(4)~~] ***Coverage for a total disability shall not be considered to have been obtained under a succeeding plan, whether it be fully insured or self-insured, if the succeeding plan excludes coverage for the total disability covered under the prior plan's extension of benefits provision.***

(6) Any applicable extension of benefits or accrued liability shall be described in the group policy as well as in group insurance certificates[~~. The benefits payable during the period of extension or accrued liability may be subject to the group policy's regular benefit limits, such as benefits ceasing at exhaustion of a benefit period or a maximum benefit limitation~~].

Section 12. KRS 304.18-127 is amended to read as follows:

(1) This section shall indicate the insurer responsible for liability in those instances in which one (1) insurer's group policy replaces the group policy of another insurer.

(2) The prior insurer shall remain liable only to the extent of its accrued liabilities, ***extension***[~~extensions~~] of benefits, and for persons who are under continued group health insurance coverage pursuant to KRS 304.18-110 at the time the group policy terminates. The position of the prior insurer shall be the same whether the group policyholder secures replacement coverage from a new insurer, self insures, or forgoes the provision of a group policy, except that termination of continued group health insurance coverage shall occur in accordance with KRS 304.18-110 ***and Section 9 of this Act***.

(3) The liability of a succeeding insurer shall be as follows:

(a) Each person who is eligible for coverage[~~ in accordance with the succeeding insurer's plan of benefits, in respect to classes eligible, actively at work, and nonconfinement rules,~~] shall be covered by that insurer's plan ***on the effective date of coverage and in accordance with KRS 304.17A-200***[~~of benefits~~].

(b) ***If a person, who is eligible for coverage, is confined as of the effective date of coverage under the succeeding insurer's plan and the succeeding insurer has a nonconfinement rule, the succeeding insurer is not responsible for the cost of the person's confinement to the extent that the confinement is covered by a prior insurer's extension of benefits provision, in accordance with Section 11 of this Act***[~~Each person not covered under the succeeding insurer's plan of benefits in accordance with paragraph (a) of this subsection shall nevertheless be covered by the succeeding insurer in accordance with the following provisions if the person was validly covered, including benefit extensions, under the prior insurer on the date of termination of the prior insurer's group policy and if the person is a member of the class or classes of persons eligible for coverage under the succeeding insurer's plan. Any reference in the following provisions to a person who was or was not totally disabled shall be a reference to that person's status immediately prior to the date the succeeding insurer's coverage becomes effective.~~

~~1. The minimum level of benefits to be provided by the succeeding insurer shall be the applicable level of benefits of the prior insurer's group policy reduced by any benefits payable by the prior insurer under its group policy.~~

~~2. Coverage shall be provided by the succeeding insurer until at least the earliest of the following dates:~~

~~a. The date the person becomes insured according to paragraph (a) of this subsection;~~

~~b. For each type of coverage, the date the person's coverage would terminate in accordance with the succeeding insurer's group policy provisions applicable to individual termination of coverage; or~~

~~c. In the case of a person who was totally disabled and the type of coverage is one for which KRS 304.18-126 requires an extension of accrued liability, the end of extension of accrued liability which is required of the prior insurer by KRS 304.18-126, or, if the prior insurer's group policy is not subject to KRS 304.18-126, would have been required of that insurer had its group policy been subject to KRS 304.18-126 at the time the prior insurer's group policy was discontinued and replaced by the succeeding insurer's plan.~~

~~(c) In the case of a pre-existing conditions limitation in the succeeding insurer's group policy, the level of benefits applicable to pre-existing conditions of persons becoming covered by the succeeding insurer's plan in accordance with this subsection during the period of time this limitation applies under the succeeding insurer's group policy shall be the lesser of:~~

~~1. The benefits of the succeeding insurer's group policy determined without application of the pre-existing conditions limitation; or~~

~~2. The benefits of the prior insurer's group policy~~].

(c)[~~(d)~~]The succeeding insurer, in applying any deductibles or waiting periods in its plan, shall give credit for the satisfaction or partial satisfaction of the same or similar provisions under a prior group policy. In the case of deductible provisions, the credit shall apply for the same or overlapping benefit periods and shall be given for expenses actually incurred and applied against the deductible provisions of the prior insurer's group policy during the ninety (90) days preceding the effective date of the succeeding insurer's group policy, but only to the extent these expenses are recognized under the terms of the succeeding insurer's group policy and are subject to similar deductible provisions.

(d)[~~(e)~~]If a determination of the prior insurer's benefit is required by the succeeding insurer, at the succeeding insurer's request the prior insurer shall furnish a statement of the benefits available or pertinent information sufficient to permit verification of the benefit determination or the determination itself by the succeeding insurer. For purposes of this section, benefits of the prior insurer's group policy shall be determined in accordance with all of the definitions, conditions, and covered expense provisions of the prior insurer's group policy rather than those of the succeeding insurer's group policy. The benefit determination shall be made as if coverage had not been replaced by the succeeding insurer.

Section 13. KRS 304.40-075 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Charitable health care provider" means any person, agency, clinic, or facility licensed or certified by the Commonwealth, or under a comparable provision of law of another state, territory, district, or possession of the United States, engaged in the rendering of medical care without compensation or charge, and without expectation of compensation or charge, to the individual, without payment or reimbursement by any governmental agency or insurer. "Charitable health care provider" only means those persons, agencies, clinics, or facilities engaging in primary care medicine and performing no invasive or surgical procedures;

(b) "Medical malpractice insurer" means every person or entity engaged as principal and as indemnitor, surety, or contractor in the business of entering into contracts to provide medical professional liability insurance, except an entity in the business of providing such medical professional liability insurance only to itself or its affiliated subsidiary, or parent corporation, or subsidiaries of its parent corporations; and

(c) "Medical professional liability insurance" means insurance to cover liability incurred as a result of the hands-on providing of medical professional services directly to patients by an insured in the treatment, diagnosis, or prevention of patient illness, disease, or injury.

(2) Insurers offering medical professional liability insurance in the Commonwealth shall make available, as a condition of doing business in the Commonwealth pursuant to this chapter, medical professional liability insurance for charitable health care providers and persons volunteering to perform medical services for charitable health care providers, with the same coverage limits made available to its other insureds.

(3) (a) Premiums for policies issued under subsection (2) of this section shall be paid by the Commonwealth from the general fund upon written application for payment of the premium by the health care provider wishing to offer charitable services.

(b) The Department of Insurance shall, through promulgation of administrative regulations pursuant to KRS Chapter 13A, establish reasonable guidelines for the registration of charitable health care providers. The guidelines shall require the provider to supply, at a minimum, the following information:

1. Name and address of the charitable health care provider;

2. Number of employees of the charitable health care provider who will be rendering medical care without compensation or charge and without expectation of compensation or charge, and who will be covered under the policy issued under subsection (2) of this section;

3. The expected number of patients to be provided charitable health care services in the year for which the insurer will offer malpractice coverage;

4. The charitable health care provider's acknowledgment that the insurer's risk management and loss prevention policies shall be followed;~~[and]~~

5. A copy of the registration filed with the Cabinet for Health Services under KRS 216.941*; and*

6. A copy of the medical malpractice policy, declaration page, and any other documentation the commissioner may deem necessary to determine the proper amount of premiums and taxes to be reimbursed.

(c) Persons insured under this section shall be required to comply with the same risk management and loss prevention policies which the insurer imposes upon its other insureds.

(d) Any premium refund for medical professional liability insurance issued under subsection (2) of this section received for any reason by the charitable health care provider shall be promptly remitted to the department for transmittal to the general fund.

(4) This section shall only apply to charitable health care providers and persons volunteering to perform medical services for charitable health care providers who are not otherwise covered by any policy of medical professional liability insurance for the charitable health care services provided, and that meet the terms for eligibility established pursuant to this section.

(5) Coverage offered to charitable health care providers and persons volunteering at charitable health care providers shall be at least as broad as the coverage offered by the insurer to other noncharitable health care providers or facilities and to medical professionals working at noncharitable health care facilities.

(6) The Department of Insurance shall retrospectively review on an annual basis the premiums paid pursuant to this section as opposed to the expenses incurred by the insurers covering risks under this section to determine if the profits made for those risks were consistent with reasonable loss ratio guidelines. If the determination is made that the profits were not consistent with reasonable loss ratio guidelines, the Department of Insurance shall determine the amount of the premiums to be refunded to the Commonwealth.

(7) The Cabinet for Health Services shall make available to the Department of Insurance information on its registration of charitable health care providers for the purpose of obtaining medical malpractice insurance.

(8) The Department of Insurance shall not provide medical malpractice insurance as specified in subsection (3)(a) of this section to a charitable health care provider who has not registered with the Cabinet for Health Services under KRS 216.941.

SECTION 14. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

In connection with rental reimbursement coverage under an automobile insurance policy, an insurer, an employee or representative of an insurer, an agent of an insurer, a consultant, or an insurance adjuster shall not:

(1) Solicit or accept a referral fee or gratuity in exchange for referring an insured or claimant to a rental vehicle agency;

(2) State or suggest, either orally or in writing, to an insured or claimant that a specific rental vehicle agency must be used to be covered under the policy; or

(3) In any way restrict the insured's or claimant's right to choose a rental vehicle agency.

Section 15. KRS 304.17A-0952 is amended to read as follows:

Premium rates for a health benefit plan issued or renewed to an individual, a small group, or an association on or after April 10, 1998, shall be subject to the following provisions:

(1) The premium rates charged during a rating period to an individual with similar case characteristics for the same coverage, or the rates that could be charged to that individual under the rating system for that class of business, shall not vary from the index rate by more than thirty-five percent (35%) of the index rate, except that the premium rates charged to an individual shall not vary from the index rate by more than fifty percent (50%) for two (2) consecutive years beginning January 1, 2001. *However, upon any policy issuance or renewal, on or after January 1, 2003, the maximum variation shall revert to thirty-five percent (35%) of the index rate.*

(2) The percentage increase in the premium rate charged to an individual for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed twenty percent (20%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the individual and dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the individual as determined from the insurer's rate manual for the class of business.

(3) The premium rates charged during a rating period to a small group or to an association member with similar case characteristics for the same coverage, or the rates that could be charged to that small group or that association member under the rating system for that class of business, shall not vary from the index rate by more than ***thirty-five percent (35%)***~~[twenty-five percent (25%)]~~ of the index rate~~[, except that the premium rate charged to a small group or association shall not vary from the index rate by more than fifty percent (50%) for two (2) consecutive years beginning January 1, 2001]~~.

(4) The percentage increase in the premium rate charged to a small group or to an association member for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed twenty percent (20%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the employee, association member, or dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the small group or association member as determined from the insurer's rate manual for the class of business.

(5) In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(6) Adjustments in rates for claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, health status, and duration of coverage shall not be charged to an individual group member or the member's dependents. Any adjustment shall be applied uniformly to the rates charged for all individuals and dependents of the small group.

(7) The commissioner may approve establishment of additional classes of business upon application to the commissioner and a finding by the commissioner that the additional class would enhance the efficiency and fairness for the applicable market segment.

(a) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business in that market segment by more than ten percent (10%).

(b) An insurer may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative cost related to the following reasons:

1. The insurer uses more than one (1) type of system for the marketing and sale of the health benefit plans; or

2. The insurer has acquired a class of business from another insurer.

(c) Notwithstanding any other provision of this subsection, beginning January 1, 2001, a GAP participating insurer may establish a separate class of business for the purpose of separating guaranteed acceptance program qualified individuals from other individuals enrolled in their plan prior to January 1, 2001. The index rate for the separate class created under this paragraph shall be established taking into consideration expected claims experience and administrative costs of the new class of business and the previous class of business.

(8) For the purpose of this section, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize a restricted provider network if utilization of the restricted provider network results in substantial differences in claims costs.

(9) Notwithstanding any other provision of this section, an insurer shall not be required to utilize the experience of those individuals with high-cost conditions who enrolled in its plans between July 15, 1995, and April 10, 1998, to develop the insurer's index rate for its individual policies.

(10) Nothing in this section shall be construed to prevent an insurer from offering incentives to participate in a program of disease prevention or health improvement.

Section 16. KRS 304.17A-0954 is amended to read as follows:

(1) For purposes of this section:

(a) "Base premium rate" has the meaning provided in KRS 304.17A-005;

(b) "Employer" means a person engaged in a trade or business who has two (2) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year;

(c) "Employer-organized association" means any of the following:

1. Any entity which was qualified by the commissioner as an eligible association prior to April 10, 1998, and which has actively marketed a health insurance program to its members after September 8, 1996, and which is not insurer-controlled;

2. An entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and which is not insurer-controlled; or

3. Any entity which is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation;

(d) "Index rate" has the meaning provided in KRS 304.17A-005.

(2) Notwithstanding any other provision of this chapter, the amount or rate of premiums for an employer-organized association health plan may be determined, subject to the restrictions of subsection (3) of this section, based upon the experience or projected experience of the employer-organized associations whose employers obtain group coverage under the plan. Without the written consent of the employer-organized association filed with the commissioner, the index rate for the employer-organized association shall be calculated solely with respect to that employer-organized association and shall not be tied to, linked to, or otherwise adversely affected by any other index rate used by the issuing insurer.

(3) The following restrictions shall be applied in calculating the permissible amount or rate of premiums for an employer-organized health insurance plan:

(a) The premium rates charged during a rating period to members of the employer-organized association with similar characteristics for the same or similar coverage, or the premium rates that could be charged to a member of the employer-organized association under the rating system for that class of business, shall not vary from its own index rate by more than ***thirty-five percent (35%)***[~~twenty-five percent (25%)~~] of its own index rate[~~, except that the premium rates charged to an employer-organized association shall not vary from the index rate by more than fifty percent (50%) for two (2) consecutive years beginning January 1, 2001~~].

(b) The percentage increase in the premium rate charged to an employer member of an employer-organized association for a new rating period shall not exceed the sum of the following:

1. The percentage change in the new business premium rate for the employer-organized association measured from the first day of the prior rating period to the first day of the new rating period;

2. Any adjustment, not to exceed twenty percent (20%) annually and adjusted pro rata for rating period of less than one (1) year, due to the claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the member as determined from the insurer's rate manual; and

3. Any adjustment due to change in coverage or change in the case characteristics of the member as determined by the insurer's rate manual.

(4) In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(5) For the purpose of this section, a health insurance contract that utilizes a restricted provider network shall not be considered similar coverage to a health insurance contract that does not utilize a restricted provider network if utilization of the restricted provider network results in measurable differences in claims costs.

Section 17. The following KRS sections are repealed:

304.17A-137 Coverage for prescribed cancer drugs not approved by the Federal Food and Drug Administration for cancer treatment -- Review panel for off-label uses.

304.17A-260 Approval to reenter state for insurer that ceased doing business after July 15, 1995, and before April 10, 1998.

Calendar

HB 673, SB 90, SB 125, HB 334, HB 471, HB 478, HB 521, HB 533, HB 615, HB 586, HB 68, HB 602, HB 319, HB 654, and **HB 682** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Senate Message

Announced passage of **SB 18, SB 102, SB 169, SCR 45, HB 261, HB 297,** and **HB 388**. (Time 9:15 a.m.)

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications (Continued)

Representative Stumbo moved to suspend the rules to allow for a Rules Committee Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 576, HB 617, HB 487, HB 501, HB 517, HB 624, HB 643, HB 418, HB 593, HB 653, HCR 56, HJR 93,** and **HCR 138** have been posted for passage in the Orders of the Day for February 25, 2002.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations of Revenue: **HB 628**

Transportation: **HB 68**

Orders of the Day

HB 193, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved the adoption of Floor Amendment No. 2 to **HB 193**. Agreed.

Representative Riggs moved that **HB 193**, as amended, be passed.

On the roll call the vote was: **Yeas 90, Nays 0**. (See February 22, 2002, roll call on **HB 193** - Appendix.)

HB 193, as amended, was passed and the title agreed to.

Representative Riggs moved that the vote by which **HB 193**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, Communications (Continued)

Representative Bowling moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Bowling moved the adoption of the following **Legislative Citation No. 60**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the members of the Boyle County High School Football Team upon winning the 2001 KHSAA Class AAA State Football Championship title. Inasmuch as this extraordinary team has enjoyed a stellar year, finishing the season with an overall record of 15 wins and no losses, the members of this distinguished body are delighted to join with Representative John W.D. Bowling in commending the Boyle County High School Football Team for this well-deserved accolade and in extending best wishes for continued athletic success. Done in Frankfort, Kentucky, this twenty-second day of February, in the year two thousand and two.

Legislative Citation No. 60 was adopted without objection.

Orders of the Day (Continued)

HB 77, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved the adoption of the Committee Substitute to **HB 77**. Agreed.

Representative Yonts moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 77**. Agreed.

Representative Stumbo moved the adoption of Floor Amendment No. 3 to the Committee Substittue to **HB 77**. Agreed.

Representative Yonts moved that **HB 77**, as amended, be passed.

On the roll call the vote was: **Yeas 89, Nays 0**. (See February 22, 2002, roll call on **HB 77** - Appendix.)

HB 77, by way of Committee Substitute, as amended, was passed.

Representative Yonts moved the adoption of Floor Amendment No. 4 Title to **HB 77**. Agreed.

Representative Yonts moved that the vote by which **HB 77**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 296, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Colter moved the adoption of the Committee Substitute to **HB 296**. Agreed.

Representative Colter moved that **HB 296**, by way of Committee Substitute, be passed.

Representative Colter moved that **HB 296**, by way of Committee Substitute, be laid on the Clerk's Desk. Agreed.

Representative Colter moved to withdraw the motion that **HB 296**, by way of Committee Substitute, be laid on the Clerk's Desk. Agreed.

Representative Colter moved that **HB 296**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 83, Nays 8**. (See February 22, 2002, roll call on **HB 296** - Appendix.)

HB 296, by way of Committee Substitute, was passed and the title agreed to.

Representative Colter moved that the vote by which **HB 296**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 261, HB 297,** and **HB 388** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 10:00 a.m.)

Orders of the Day (Continued)

HB 589 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved that **HB 589** be passed.

On the roll call the vote was: **Yeas 90, Nays 0**. (See February 22, 2002, roll call on **HB 589** - Appendix.)

HB 589 was passed and the title agreed to.

Representative A. Arnold moved that the vote by which **HB 589** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 523, with Committee Substitute, Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Vincent moved the adoption of the Committee Substitute to **HB 523**. Agreed.

Representative Vincent moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 523**. Agreed.

Representative Vincent moved that **HB 523**, by way of Committee Substitute, as amended, be passed.

Representative Wayne moved to lay **HB 523**, by way of Committee Substitute, as amended, on the Clerk's Desk.

The motion to lay **HB 523**, by way of Committee Substitute, as amended, on the Clerk's Desk, was rejected by voice vote.

Representative Vincent moved that **HB 523**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 66, Nays 22**. (See February 22, 2002, roll call on **HB 523** - Appendix.)

HB 523, by way of Committee Substitute, as amended, was passed.

Representative Vincent moved the adoption of Committee Amendment No. 1 Title to **HB 523**. Agreed.

Representative Vincent moved that the vote by which **HB 523**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 194 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HB 194** be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See February 22, 2002, roll call on **HB 194** - Appendix.)

HB 194 was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 194** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that **HB 540** be placed in the Orders of the Day, for Monday, February 25, 2002. Agreed.

Representative Stumbo moved that **HB 294** and **HB 119** be recommitted to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved to suspend the rules for Introductions of Bills and Report of Committee. Agreed.

Introduction of Bills and Resolutions

HB 736, by Representative Treesh: AN ACT relating to purchasing by local public agencies.

HB 737, by Representatives Marzian, Jenkins, Meeks, Horlander, Feeley, and Heleringer: AN ACT relating to the establishment of a Lewis and Clark Bicentennial Commission.

HB 738, by Representative Gooch: AN ACT relating to water withdrawal.

HB 739, by Representative Rasche: AN ACT relating to joint sewer agencies and declaring an emergency.

HB 740, by Representative J. Arnold: AN ACT relating to cosmetology.

HB 741, by Representatives Gooch and J. Arnold: AN ACT relating to the construction of county roads.

HCR 177, by Representative Rasche: A CONCURRENT RESOLUTION directing the Interim Joint Committee on Education to study education leadership.

HJR 178, by Representative Gooch: A JOINT RESOLUTION naming Kentucky Route 81 in McLean County in honor of John Rowan.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 243, HB 183, HB 234, HB 395, HB 402, HB 455, HB 519, HB 715, HB 707, HCR 158**

Local Government: **HB 596**

Labor and Industry: **HB 730, HB 732**

State Government: **HB 727**

Education: **SB 131, SB 132, SB 168**

Licensing and Occupations: **HB 70**

Seniors, Military Affairs, and Public Safety: **HCR 123, HB 583, HB 613, HB 672, HB 720**

Motions, Petitions, and Communications (Continued)

Representative Treesh moved the Floor Amendment No. 1 to **HB 249** be withdrawn. Agreed.

Representative Pullin moved that **HB 494** be withdrawn. Agreed.

Representative Crall moved that **HCR 151** be withdrawn. Agreed.

Representative Stein moved that **HB 695** be withdrawn. Agreed.

Representative Crall moved the Floor Amendment No. 8 and Floor Amendment No. 9 to **HB 369** be withdrawn. Agreed.

Representative S. Lee moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative S. Lee moved that his vote be changed from "nay" to "yea" on **HB 523**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to the Committee Substitute to **HB 415**, by Representative Heleringer:

On page 1, line 23, to delete the period "." following "Commission" and to insert "; and" in lieu thereof;

On page 1, between lines 23 and 24, to insert:

"(5) Two (2) members from the Justice Cabinet appointed by the secretary of the Justice Cabinet."

Floor Amendment No. 2 to the Committee Substitute to **HB 415**, by Representative Heleringer:

On page 1, line 20, following "Police" to insert "who hold a rank below that of corporal"

Floor Amendment No. 1 to **HB 533**, by Representative Simpson:

On page 2, line 1, after the word "***suspended,***" insert the word "***demoted,***".

Floor Amendment No. 1 to the Committee Substitute No. 2 to **HB 188**, by Representative Burch:

On page 8, lines 10 and 11, by deleting "***and other information the cabinet may deem appropriate***".

Floor Amendment No. 2 to the Committee Substitute No. 2 to **HB 188**, by Representative Burch:

On page 4, line 24, after "***Service***", by inserting "***or who has been admitted into the United States as a refugee or who has been granted asylum***"; and

On page 10, line 24, after "***States***", by inserting "***or who has not been admitted into the United States as a refugee or who has not been granted asylum***"; and

On page 14, line 23, after "***States***", by inserting "***or who has not been admitted into the United States as a refugee or who has not been granted asylum***"; and

On page 15, line 1, after "***States***", by inserting "***or who has not been admitted into the United States as a refugee or who has not been granted asylum***".

Floor Amendment No. 1 to **HB 521**, by Representative S. Lee:

On Page 1, line 20, after the period, by inserting and underlining, "***The provisions of this subsection shall not apply to the owner or owners of public or private burial grounds when the public or private burial grounds have been desecrated, damaged, or destroyed as the result of a crime by another as defined by KRS 500.080.***".

Floor Amendment No. 11 to the Committee Substitute to **HB 540**, by Representative Barrows:

On page 22, after line 22, by inserting:

"Section 15. The Natural Resources and Environmental Protection Cabinet shall accept for review applications for new air, water, and waste permits sought by electric generating facilities, including but not limited to, electric generating units, but shall not issue new permits until after June 21, 2003.

Section 16. The Public Service Commission shall accept for review applications for certificates of convenience and necessity and environmental compatibility and applications requesting declarations that a new electric generating facility is exempt from certain PSC requirements, but shall not issue new certificates or declarations until after June 21, 2003.

Section 17. This Act shall not apply to applications for electric generating facilities of ten (10) megawatts capacity or less which convert solid waste landfill gas to electricity and which, due to the small scale of these facilities, would contribute little to the state's energy supplies and would have little or no negative impact on the electricity transmission system of the state.

Section 18. The Energy Reliability and Environmental Safety Task Force is created. The task force shall be composed of seven members of the House of Representatives appointed by the Speaker of the House and seven members of the Senate appointed by the President of the Senate. The Speaker and the President shall each name one of their appointees to serve as co-chairs. Seven members shall constitute a quorum. The task force shall meet monthly, with the first meeting to be held no later than July 30, 2002. The members shall be compensated for attending meetings as provided in KRS 7.090(3) and 7.110(5).

Section 19. The General Assembly confirms Executive Order 2001-771, as amended by and incorporated into Executive Order 2002-50, to the extent it is not otherwise confirmed by Sections 15 to 17 of this Act.

Section 20. Whereas, Executive Order 2001-771, as amended by and incorporated into Executive Order 2002-50, is in effect, an emergency is declared to exist, and Sections 15 to 19 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming a law."; and

On line 23, by renumbering Section 15 as Section 21.

Floor Amendment No. 1 to the Committee Substitute to **HB 586**, by Representative Wilkey:

On page 10, at line 26, after "*(g)*", by inserting the following new language:

"*Notwithstanding any provisions of KRS Chapters 121 or 121A to the contrary, all contributions to a reserve account shall be reported in the same manner and on the same schedule as contributions to a campaign account or committee. The campaign treasurer will assume the same duties and responsibilities with regard to the reserve account as the campaign account or committee, including but not limited to designating a primary reserve account depository.*

(h)".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolution:

HB 354, Representatives Dw. Butler and Riggs

HB 637, Representative Draud.

HCR 159, Representative Colter

Announcements

The following meetings were announced:

Budget Review Subcommittee on Human Services: no meeting Monday, February 25, 2002

Subcommittee on Corrections of the Committee on Judiciary: Wednesday, February 27, 2002, 10 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., on Monday, February 25, 2002.

The motion that the House adjourn until 4:00 p.m., on Monday, February 25, 2002, was adopted by voice vote.

MONDAY, FEBRUARY 25, 2002

THIRTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Father William Hinds, St. Patrick's Catholic Church, Maysville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Reinhardt and Upchurch.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Friday, February 22, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 742, by Representative Yonts: AN ACT relating to local emergency management directors.

HB 743, by Representatives Burch, L. Clark, and Heleringer: AN ACT relating to charitable gaming.

HB 744, by Representative Burch: AN ACT relating to children's psychiatric residential treatment facilities.

HR 179, by Representatives Marzian and Meeks: A RESOLUTION adjourning the House of Representatives in honor of Dr. John Shumaker, President of the University of Louisville.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 735**

Education: **HCR 177**

Judiciary: **HB 734**

Licensing and Occupations: **HB 740**

Local Government: **HB 736, 739, SB 102, 169**

Natural Resources and Environment: **HB 738**

State Government: **SCR 45**

Tourism Development and Energy: **HB 737**

Transportation: **HB 741, HJR 175, 178, SB 18**

House Floor: **HR 176**

Report of Committees

The Committee on Rules reported that **HB 222, HB 249, HB 535, HB 611, HJR 94, SB 4,** and **SB 89** have been posted for passage in the Orders of the Day for February 26, 2002.

Calendar

HB 391 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 505 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Feeley moved that **HB 505** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 25, 2002, roll call on **HB 505** - Appendix.)

HB 505 was passed and the title agreed to.

Representative Feeley moved that the vote by which **HB 505** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 605, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved the adoption of the Committee Substitute to **HB 605**. Agreed.

Representative Haydon moved that **HB 605**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 50, Nays 38**. (See February 25, 2002, roll call on **HB 605** - Appendix.)

HB 605, by way of Committee Substitute, was passed and the title agreed to.

Representative Haydon moved that the vote by which **HB 605**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 501, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved the adoption of Floor Amendment No. 1 to **HB 501**. Agreed.

Representative L. Belcher moved that **HB 501**, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See February 25, 2002, roll call on **HB 501** - Appendix.)

HB 501, as amended, was passed.

Representative L. Belcher moved the adoption of Floor Amendment No. 2 Title to **HB 501**. Agreed.

Representative L. Belcher moved that the vote by which **HB 501**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 377 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved that **HB 377** be passed.

On the roll call the vote was: **Yeas 66, Nays 23**. (See February 25, 2002, roll call on **HB 377** - Appendix.)

HB 377 was passed and the title agreed to.

Representative Stein moved that the vote by which **HB 377** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 517, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McKee moved the adoption of Floor Amendment No. 1 to **HB 517**. Agreed.

Representative McKee moved that **HB 517**, as amended, be passed.

On the roll call the vote was: **Yeas 88, Nays 4**. (See February 25, 2002, roll call on **HB 517** - Appendix.)

HB 517, as amended, was passed.

Representative MCKee moved the adoption of Floor Amendment No. 2 Title to **HB 517**. Agreed.

Representative McKee moved that the vote by which **HB 517**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 624 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative C. Belcher moved that **HB 624** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 25, 2002, roll call on **HB 624** - Appendix.)

HB 624 was passed and the title agreed to.

Representative C. Belcher moved that the vote by which **HB 624** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 643, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HB 643**. Agreed.

Representative Geveden moved the adoption of Floor Amendment No. 1 the Committee Substitute to **HB 643**. Agreed.

Representative Geveden moved that **HB 643**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 25, 2002, roll call on **HB 643** - Appendix.)

HB 643, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 643**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 33, HB 86, HB 109, HB 143; HB 261, HB 279, HB 297,** and **HB 388** were delivered to the Senate and signed by the President. Delivered to the Governor on February 25 at 4:41 p.m..

Orders of the Day (Continued)

HB 418 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crenshaw moved that **HB 418** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 25, 2002, roll call on **HB 418** - Appendix.)

HB 418 was passed and the title agreed to.

Representative Crenshaw moved that the vote by which **HB 418** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 540, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Draud moved the adoption of the Committee Substitute to **HB 540**. Agreed.

Representative Lindsay moved the adoption of Floor Amendment No. 9 to the Committee Substitute to **HB 540**. Agreed.

Representative Riggs moved the adoption of Floor Amendment No. 10 to the Committee Substitute to **HB 540**. Agreed.

Representative Feeley moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 540**. Agreed.

Representative Feeley moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 540**. Agreed.

Representative Feeley moved the adoption of Floor Amendment No. 7 to the Committee Substitute to **HB 540**. Agreed.

Representative Feeley moved the adoption of Floor Amendment No. 8 to the Committee Substitute to **HB 540**. Agreed.

Representative Draud moved that **HB 540**, by way of Committee Substitute, as amended, be passed.

Representative S. Lee moved the adoption of Floor Amendment No. 6 to the Committee Substitute to **HB 540**.

On the roll call the vote was: **Yeas 49, Nays 49**. (See February 25, 2002, roll call on **HB 540** - Appendix.)

Floor Amendment No. 6 to the Committee Substitute to **HB 540** was rejected.

Representative Draud moved that **HB 540**, by way of Committee Substitute, as amended, be passed.

Representative Barrows moved the adoption of Floor Amendment No. 11 to the Committee Substitute to **HB 540**.

Representative Tapp inquired whether Floor Amendment No. 11 to **HB 540** was germane.

The Speaker ruled that Floor Amendment No. 11 to the Committee Substitute to **HB 540** was germane.

Representative Barrows moved the adoption of Floor Amendment No. 11 to the Committee Substitute to **HB 540**.

Floor Amendment No. 11 to the Committee Substitute to **HB 540** was rejected by voice vote.

Representative Crimm moved that the vote by which Floor Amendment No. 6 to the Committee Substitute to **HB 540** was rejected be reconsidered.

On the roll call the vote was: **Yeas 44, Nays 53**. (See February 25, 2002, roll call on **HB 540** - Appendix.)

The motion to reconsider the vote on Floor Amendment No. 6 to the Committee Substitute to **HB 540** was rejected by voice vote.

Representative Draud moved that **HB 540**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 84, Nays 14**. (See February 25, 2002, roll call on **HB 540** - Appendix.)

HB 540, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Draud moved that the vote by which **HB 540**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 138 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sims moved that **HCR 138** be adopted.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 25, 2002, roll call on **HCR 138** - Appendix.)

HCR 138 was adopted.

Representative Sims moved that the vote by which **HCR 138** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved to waive the posting requirement on the following: **HCR 123** and **HB 671**. Agreed

Representative Stumbo moved to suspend the rules for Introduction of Bills and Committee Reports.

Introduction of Bills and Resolutions (Continued)

HB 745, by Representative Collins: AN ACT relating to oil and gas.

HB 746, by Representative Palumbo: AN ACT relating to food sanitation.

HB 747, by Representative Webb: AN ACT relating to school athletics.

HB 748, by Representative Graham: AN ACT relating to state employee organizations.

HB 749, by Representatives Marzian and Jenkins: AN ACT designating the Louisville Science Center as the State Science Center of Kentucky.

HB 750, by Representative J. Turner: AN ACT relating to civil procedure.

HB 751, by Representative Branham: AN ACT relating to blasting penalties.

HB 752, by Representative Branham: AN ACT relating to dedicated water transmission lines.

HB 753, by Representative Draud: AN ACT relating to Kentucky courts.

HB 754, by Representative Nunn: AN ACT relating to sales and use taxes.

HB 755, by Representative Stumbo: AN ACT relating to motor vehicles that have a limited exemption from being regulated as a motor carrier.

HB 756, by Representatives Tapp and Bratcher: AN ACT relating to medical savings accounts.

HB 757, by Representative Nelson: AN ACT relating to the prohibition of retroactive denial of reimbursement for services covered by a health benefit plan.

HB 758, by Representative Geveden: AN ACT relating to establishing bank branches.

HB 759, by Representative Geveden: AN ACT relating to geographic information.

HB 760, by Representatives Palumbo and Weaver: AN ACT relating to senior citizens.

HB 761, by Representative Jenkins: AN ACT relating to workplace violence.

HB 762, by Representatives Richards and Brinkman: AN ACT relating to economic development.

HJR 180, by Representative Gooch: A JOINT RESOLUTION memorializing former State Representative Richard "Hoppy" Hopkins.

HJR 181, by Representative Gooch: A JOINT RESOLUTION memorializing Absalom Redmon Shacklett.

HCR 182, by Representative Webb: A CONCURRENT RESOLUTION directing the Interim Joint Committee on Judiciary to study the Uniform Child Custody Jurisdiction and Enforcement Act.

HR 183, by Representative Graham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Gwenneth Timm Cullen.

HCR 184, by Representative Yonts: A CONCURRENT RESOLUTION establishing a task force on a uniform indexing system.

HCR 185, by Representative Damron: A CONCURRENT RESOLUTION designating February as Character Education Month in Kentucky.

HJR 186, by Representative Burch: A JOINT RESOLUTION directing the Department of Education to study issues related to personal safety education and sex education in public schools.

HR 187, by Representative Heleringer: A RESOLUTION adjourning the House of Representatives in honor of Diane Jones upon being the recipient of the Religious Educational Excellence Award.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Small Business: **HCR 159**

Banking and Insurance: **HB 660, HB 674, HB 690, HB 698, HB 721**

Health and Welfare: **HB 701, HB 731, HCR 136, SB 2, SB 56**

Local Government: **HB 679, HB 650, HB 641, HB 618, HB 534, SB 66, SB 112, SB 141, SB 143**

Motions, Petitions, and Communications (Continued)

Representative Marzian moved to suspend the rules to act on a Resolution. Agreed.

Representative Marzian moved the adoption of the following **HR 179**:

HR 179, A RESOLUTION adjourning the House of Representatives in honor of Dr. John Shumaker, President of the University of Louisville.

WHEREAS, Dr. John Shumaker, as President of the University of Louisville, has demonstrated superb leadership, and his contribution to the quality of education at the University of Louisville is beyond measure and will have lasting effect; and

WHEREAS, as an educator and leader, Dr. John Shumaker has earned respect and recognition from the academic community, not only in this Commonwealth, but among other institutions of higher learning nationwide; and during his 6-1/2 year tenure as President of the university, Dr. Shumaker's vision and leadership abilities have contributed toward increasing the university's endowment fund from $183 million to $503 million, endowed chairs have tripled, and funding for science and engineering research has grown from $14.6 million in 1995 to $38.4 million in 2001; and in establishing the Challenge for Excellence program, which is aimed at increasing research capacity and strengthening undergraduate programs, the university should be brought to national stature by 2008; and

WHEREAS, Dr. Shumaker has aggressively recruited and has been successful in keeping the university's best and brightest students here in Kentucky; and he has played an integral role in developing the metropolitan college program in partnership with United Parcel Service, which resulted in retaining and expanding the UPS hub facilities in Louisville; and

WHEREAS, under the auspices of Dr. Shumaker, the University of Louisville's Health Sciences Center has garnered worldwide recognition, as evidenced by the artificial heart implant surgeries and successful hand transplant surgeries which were performed by University of Louisville surgeons; and

WHEREAS, in an evaluation summary of Dr. Shumaker in 2001, the University of Louisville trustees noted that he had helped U of L meet its employment and student diversity goals, streamlined the university, closed the salary gap between faculty and their peers at other universities, and successfully planned cooperative ventures with the University of Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body hereby salutes and applauds Dr. John Shumaker for his immeasurable contributions toward the quality of education at the University of Louisville. Throughout his tenure as President of the University of Louisville, we have witnessed his many successes and impressive accomplishments, and we hope that Dr. Shumaker will continue his valuable service to the University of Louisville and the Commonwealth of Kentucky. We also feel that red is a preferable color to orange.

Section 2. When the House of Representatives adjourns this day, February 22, 2002, it does so in honor of Dr. John Shumaker, President of the University of Louisville.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Dr. John Shumaker, President of the University of Louisville, 102 Grawemeyer Hall, University of Louisville, Louisville, Kentucky 40292.

There being no objection **HR 179** was adopted.

Representative Stumbo moved to waive the posting requirement on **HCR 162**. Agreed.

Representative Nesler moved the adoption of the following **Legislative Citation No. 61**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in memory of Dewayne Stroup and joins with Representative Fred Nesler in expressing deepest sympathy to the Stroup Family and all those who share in the loss of this esteemed citizen who passed away on February 19, 2002. The son of Connie P. Stroup and the late Sara Mozelle Walston, he was preceded in death by a brother, Connie Gayla Stroup. He is survived by his beloved wife, Gail Stroup; son, Kerry Stroup; brother, Johnny M. Stroup; one step-brother; three step-sisters; his father; and step-mother, Sybil Stroup and a host of special relatives and friends. This esteemed citizen, the owner of Stroup's Body Shop, was an active member of his community who had served as a member of the United States Army Reserves, the Mayfield Lions Club, the local Chamber of Commerce and was a dedicated member of the Wingo Church of Christ, where he was a past Sunday School Teacher. Dewayne Stroup is remembered on this day for the many and generous contributions he made to his family, the Commonwealth and this Nation and will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this twenty-fifth day of February, in the year two thousand and two.

Legislative Citation No. 61 was adopted without objection.

Representative Nunn moved the adoption of the following **HR 176**:

HR 176, A RESOLUTION declaring May 12-18, 2002, as National Historic Preservation Week in the Commonwealth of Kentucky.

WHEREAS, the Kentucky Heritage Council and the State Historic Preservation Office have confirmed that historic preservation is an effective tool for managing growth, revitalizing neighborhoods, fostering local pride, and maintaining community character while enhancing livability; and

WHEREAS, historic preservation is relevant for communities across the nation, both urban and rural, and for Kentuckians of all ages, all walks of life, and all ethnic backgrounds; and

WHEREAS, it is important to celebrate the role of history in our lives and the contributions made by dedicated individuals in helping to preserve the tangible aspects of the heritage that has shaped us as a people; and

WHEREAS, the theme for Preservation Week 2002 is "Preserving the Spirit of Place." It's more than saving historic buildings. It's about embracing the many layers of our past. From Native American archaeology to Atlanta's inner neighborhoods, America's heritage belongs to everyone from all walks of life. Celebrating the rich tapestry of America's past is essential to ensuring its future, and Preservation Week is the time to show how your community values the diversity that makes it unique;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby declare May 12-18, 2002, as National Historic Preservation Week in the Commonwealth of Kentucky, and thereby recognizes the invaluable service of the Kentucky Heritage Council and the State Historic Preservation Office to the citizens of the Commonwealth of Kentucky, and calls upon the people of Kentucky to join their fellow citizens across the United States in recognizing and participating in this special observance.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. David Morgan, Executive Director, Kentucky Heritage Council, 300 Washington Street, Frankfort, Kentucky 40601.

There being no objection **HR 176** was adopted.

Representative Heleringer moved that the rules be suspended to act on Resolutions. Agreed.

Representative Heleringer moved the adoption of the following **HR 171**:

HR 171, A RESOLUTION adjourning the House of Representatives in honor of the fifty year anniversary of the Council on Mental Retardation, Inc.

WHEREAS, since its inception fifty years ago, the Council on Mental Retardation, Inc. has been advocating for community-based, quality programs and services for persons with mental retardation and their families through public school programs for all children, vocational and day services for adults, residential options in the community, recreation and respite programs, citizen advocacy, parent outreach and family support, and assisted technology services, and the Council has led the community in developing these opportunities and in advocating for community understanding and support for all people, regardless of disability; and

WHEREAS, this honorable body challenges all citizens throughout our great Commonwealth to become involved in community programs by donating their time and resources, making financial contributions, and working together to create a world where all children and adults with mental retardation are included, empowered, and valued;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby recognize and applaud the Council on Mental Retardation, Inc. for fifty years of dedicated service to the citizens of this Commonwealth, and for their commitment in making a positive difference in the lives of people with mental retardation. We wish to the Council on Mental Retardation, Inc. success in all future endeavors.

Section 2. When the House of Representatives adjourns this day, it does so in honor of the fifty year anniversary of the Council on Mental Retardation, Inc.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Council on Mental Retardation, Inc., 1146 South Third Street, Louisville, Kentucky 40203-2997.

There being no objection **HR 171** was adopted.

Representative Heleringer moved the adoption of the following **HR 187**:

HR 187, A RESOLUTION adjourning the House of Representatives in honor of Diane Jones upon being the recipient of the Religious Educational Excellence Award.

WHEREAS, Diane Jones has taught social studies, language arts, and religion to fourth and seventh grade students at St. Aloysius Catholic School in Pewee Valley, Kentucky for fourteen years; and

WHEREAS, during her tenure at St. Aloysius Catholic School, Diane Jones has demonstrated an unwavering dedication toward the religious development of her students by influencing positive thinking in their attitude toward one another, and by developing a sense of self-worth and self-reliance in her students; and

WHEREAS, because of Diane Jones' excellent teaching skills and her "hands-on" learning methods, the Archdiocese of Louisville presented her with the Religious Educational Excellence Award during a ceremony at St. Patrick's Catholic Church to celebrate Catholic Schools Week;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives is indeed proud and honored to recognize Diane Jones as being the recipient of the Religious Educational Excellence Award. She has been an inspiration to all the lives she has touched at St. Aloysius Catholic School, and we wish to her success in all future endeavors.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Diane Jones.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Diane Jones, St. Aloysius Catholic School, 122 Mount Mercy Drive, P. O. Box 190, Pewee Valley, Kentucky 40056.

There being no objection **HR 187** was adopted.

Representative Graham moved the adoption of the following **HR 183**:

HR 183, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Gwenneth Timm Cullen.

With deepest respect and admiration, we pay homage and tribute to Gwen Cullen, and we pause in silent reverence for her soul.

WHEREAS, Gwen Cullen was born on May 17, 1911, a native of Rock County, Wisconsin, and longtime resident of Frankfort, Franklin County, Kentucky, and she traversed these earthly bounds on February 12, 2002; and

WHEREAS, Gwen Cullen was the loving daughter of the late Carl Timm and Mabel Ross Timm; she was the devoted wife of the late Judge Robert K. Cullen; she was the adored mother of a son, Jay Robert Cullen of Dawsonville, Georgia, and a daughter, Sally C. Bryan of Frankfort; she was the proud grandmother of six granddaughters and fifteen great-grandchildren; and she was the loving sister of Carl Timm of Missouri and Margaret Prieve of Bradenton, Florida; and

WHEREAS, Gwen Cullen was an active and involved citizen and an esteemed member of the Franklin County community where she was a charter member and former president of the Franklin County Homemaker's Garden Club, a member and former president of the Garden Club of Frankfort and the Capital Heights Homemakers; she was chairman of the Garden Club of Kentucky Floral Clock Scholarship Fund, a former member of the Paul Sawyier Library Board, a former member of the Frankfort Arts Foundation, a member of Historic Frankfort, the National Audubon Society, and she was a supporter of the Buckley Wildlife Center; and

WHEREAS, Gwen Cullen was a nationally-accredited Master Flower Show Judge who, for many years, provided flower arrangements for Sunday services at First Baptist Church where she was a devout member, and for events at the historic Governor's Mansion, and many other events in the Frankfort community; her expertise in flower arranging and gardening was sought by many throughout the years, and her imprint upon the beautification of this great Commonwealth will have lasting impact; and

WHEREAS, the passing of Gwen Cullen has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its utter sense of bereavement upon the passing of Gwen Cullen, and extends to her family and friends its most profound and deepest sympathy.

Section 2. The passion, dedication, intelligence, and social consciousness Gwen Cullen brought to this Commonwealth will never be forgotten.

Section 3. When the House of Representatives adjourns this day, it does so in loving memory and honor of Gwen Cullen.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Ms. Sally C. Bryan, 241 Eastover Drive, Frankfort, Kentucky 40601.

There being no objection **HR 183** was adopted.

Speaker Richards stated that without objection **HR 21** would be adopted.

HR 21, A RESOLUTION adjourning the House of Representatives in loving memory and honor of William E. "Bunny" Davis.

With deepest respect and admiration, we pay homage and tribute to our friend and colleague, William E. "Bunny" Davis, and we pause in silent reverence for his soul.

WHEREAS, William E. "Bunny" Davis was born on June 9, 1917, a native of Perryville, Boyle County, Kentucky, and longtime resident of Danville, Kentucky, and he traversed these earthly bounds on October 12, 2001; and

WHEREAS, William E. "Bunny" Davis was the loving son of the late Lloyd and Hester Davis; he was the devoted husband of fifty-nine years to Lillian Beasley Davis; he was the loving father of three daughters, Ella Louise Davis and Dolores Davis, both of Michigan, and Jeanine Ford of Danville; and a son, John T. Davis of Danville; and he was the proud grandfather of 17 grandchildren and several great-grandchildren; and

WHEREAS, William E. "Bunny" Davis graduated from Danville Bate High School; he had a long and distinguished career in sports, beginning with his days as a football running back at Danvillle Bate High School where he was also named an All-State and All-American basketball player and anchored a championship high school relay team where he was nicknamed "bunny rabbit" because of his great speed and ducking and dodging ability, and was recognized as one of the fastest track men in the state, with a consistent 9.7 in the 100 yard dash, and in his senior year, he was clocked in at 9.6; his genius in the field of sports led him to become the graduate assistant backfield coach at Danville Bate High School under head coach William "Goody" Goodwin and to become head basketball coach at Westside High School in Harrodsburg, and he later returned to Danville Bate High School as backfield coach under coach William Summers; and

WHEREAS, William E. "Bunny" Davis held the distinction of being part of the first integrated semi-pro baseball team in the South, the "Lexington Hustlers," that set a precedent for breaking down racial barriers in athletics and shaped the positive and productive interaction of all citizens of our society regardless of color or creed; he played baseball against many Hall of Famers, such as Willie Mays, Jackie Robinson, Satchel Paige, Cool Papa Bell and Josh Gibson; he was one of the first blacks to call integrated basketball in the Kentucky High School Athletic Association in Central Kentucky where he earned the rank of certified official, and, in 1991, he was inducted into the Kentucky High School Athletic Association Sports Hall of Fame; and

WHEREAS, William E. "Bunny" Davis was a successful businessman who was held in high esteem by the Danville and Boyle County communities where he was city commissioner for 13 years and served as mayor pro tem; he was highly regarded for his effective advocacy on behalf of Danville and Boyle County Senior Citizens, being instrumental in obtaining funding for their 25-passenger bus, and he could always be relied upon for support during fund-raising efforts; he was the first black selected to serve on Ephraim McDowell's Board of Directors, on Danville's United Way Board of Directors, on Danville's Selective Service Board, on Danville's Policeman's and Fireman's Merit Board, and on Danville's Chamber of Commerce Board of Directors; and to show their appreciation for his lifetime of stewardship rendered to his community, the City of Danvillle named their recreation building "The William E. 'Bunny' Davis Recreation Complex" in his honor; and

WHEREAS, William E. "Bunny" Davis was the chief doorkeeper of the House of Representatives for 28 years, where he announced the arrival of dignitaries, and when this honorable body reflects upon the memory of William E. "Bunny" Davis, we remember him not only for his many accomplishments and the friendships he made and sustained through the years, but also his compassion for and understanding of the common man, which he demonstrated daily throughout his life; and

WHEREAS, all who knew and admired William E. "Bunny" Davis will grieve over their loss, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of William E. "Bunny" Davis, and extends to his family and many friends its most heartfelt sympathy.

Section 2. The passion, dedication, intelligence, and social consciousness William E. "Bunny" Davis brought to this Commonwealth will never be forgotten, and his influence will continue.

Section 3. When the House of Representatives adjourns this day, it does so in loving memory and honor of William E. "Bunny" Davis.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Lillian Beasley Davis, 598 West Lexington Avenue, Danville, Kentucky 40422.

There being no objection **HR 21** was adopted.

Representative Nunn moved that **HB 370** be withdrawn. Agreed.

Representative Crall moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Crall moved that he be recorded as voting "yea" on **HB 501, HB 517, HB 624, HB 643,** and **HB 418**. Agreed.

Representative Crall moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crall moved that he be recorded as voting "nay" on **HB 605**. Agreed.

Representative Brinkman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Brinkman moved that his vote be changed from "yea" to "nay" on **HB 377**. Agreed.

Representative Westrom moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Westrom moved that she be recorded as voting "yea" on **HB 501**. Agreed.

Representative S. Lee moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative S. Lee moved that his vote be changed from "yea" to "nay" on **HB 605**. Agreed.

Representative Simpson moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Simpson moved that he be recorded as voting "yea" on **HB 505, HB 605,** and **HB 501**. Agreed.

Representative Haydon moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Haydon moved that he be recorded as voting "yea" on **HB 189, HB 190, HB 198, HB 381, HB 436, HB 457, HB 470, HB 473, HB 526, HB 531, HB 621, HCR 52, HCR 53, HCR 54, HCR 55, HCR 57, HCR 58, HCR 59, HCR 109, HB 193, HB 77, HB 296, HB 589, HB 523,** and **HB 194**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 25 to the Committee Substitute to **HB 369**, by Representative Coleman:

On page 8, line 13, after "*II*" insert "*III, IV, or V*".

Floor Amendment No. 26 to the Committee Substitute to **HB 369**, by Representative Coleman:

On page 8, by inserting the following between lines 13 and 14:

"*(d) Any controlled substance classified as a Schedule III, IV, or V that is dispensed by the mail order option shall be sent by certified mail, with a return receipt requested, and the receipt shall be signed by the person accepting the prescription.*";

On page 8, line 14, by deleting "*(d)*" and inserting "*(e)*" in lieu thereof; and

On page 8, line 22, by deleting "*(e)*" and inserting "*(f)*" in lieu thereof.

Floor Amendment No. 27 to the Committee Substitute to **HB 369**, by Representative Coleman:

On page 8, by inserting the following between lines 13 and 14:

"*(d) All prescription drugs dispensed to a resident of the Commonwealth under a program authorized by this section shall be dispensed by a pharmacist holding a valid license issued by the Kentucky Board of Pharmacy pursuant to KRS Chapter 315.*";

On page 8, line 14, by deleting "*(d)*" and inserting "*(e)*" in lieu thereof; and

On page 8, line 22, by deleting "*(e)*" and inserting "*(f)*" in lieu thereof.

Floor Amendment No. 12 to the Committee Substitute to **HB 540**, by Representative Riggs:

On page 11, line 6, after "*KRS 151.210.*" by inserting "*When considering an application for an electric generating facility under Section 4 or Section 7 of this Act, the board shall give favorable consideration for the utilization of clean coal technology as defined in 42 U.S.C. sec. 7651n(a).*".

Floor Amendment No. 2 to the Committee Substitute to **HB 593**, by Representative Marzian:

On page 1, line 10, after "*of*" and before the colon "*:*" by inserting "*the following representatives, one (1) of whom shall be male, and one (1) of whom shall be female, except in paragraphs (f) and (i)*"; and

On page 1, line 15, after "*(d)*" by deleting "*One (1) female player,*" and inserting "*Two (2) former players,*"; and

On page 1, by deleting lines 17 and 18 in their entirety; and

On page 1, line 19, by deleting "*(f)*" and inserting "*(e)*"; and

On page 1, line 20, by deleting "*(g)*" and inserting "*(f)*"; and

On page 1. line 22, by deleting "*(h)*" and inserting "*(g)*"; and

On page 1, line 23, by deleting "*(i)*" and inserting "*(h)*"; and

On page 1, line 24, by deleting "*(j)*" and inserting "*(i)*".

On page 2, after "*(3)*", by inserting the following: "*Representation appointed to the committee pursuant to subsections (2)(f) and (2)(i) of this section may be based on gender equity if female candidates are available.*

(4)".

Floor Amendment No. 1 to the Committee Substitute No. 2 to **HB 487**, by Representative Barrows:

On page 24 by deleting Section 20 in its entirety; and

On page 24, line 24, by deleting "Section 21" and substituting "Section 20" in lieu thereof.

Floor Amendment No. 3 to **HB 617**, by Representative Damron:

On page 31, line 21, after "*chapter*" by inserting "*by subsection (11) of Section 4 of this Act*";

On page 34, by deleting all text from line 7 through page 55, line 3, and inserting in lieu thereof the following:

"*As used in Sections 23 to 34 of this Act:*

(1) "Board" means the Kentucky Board of Medical Licensure;

(2) "Complaint" means a formal administrative pleading that sets forth charges against a physician assistant and commences a formal disciplinary proceeding;

(3) "Physician assistant" means a person who:

(a) Has graduated from a physician assistant or surgeon assistant program accredited by the Accreditation Review Commission on Education for Physician Assistants or its predecessor or successor agencies and has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or its predecessor or successor agencies; or

(b) Possesses a current physician assistant certificate issued by the board prior to the effective date of this Act;

(4) "Supervising physician" means a physician licensed by the board who supervises one (1) or more physician assistants;

(5) "Supervising physician in anesthesia" means a physician licensed by the board who has completed postgraduate training in anesthesiology at an anesthesiology program accredited by the Accreditation Council for Graduate Medical Education or its equivalent; and

(6) "Supervision" means overseeing the activities of and accepting of responsibility for the medical services rendered by a physician assistant. Each team of physicians and physician assistants shall ensure that the delegation of medical tasks is appropriate to the physician assistant's level of training and experience, that the identifications of and access to the supervising physician are clearly defined, and that a process for evaluation of the physician assistant's performance is established.

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A relating to the certification and regulation, including temporary certification, of physician assistants.

(2) The board shall establish a nine (9) member Physician Assistant Advisory Committee that shall review and make recommendations to the board regarding all matters relating to physician assistants that come before the board, including but not limited to:

(a) Applications for physician assistant certification;

(b) Certification renewal requirements;

(c) Approval of supervising physicians;

(d) Disciplinary actions; and

(e) Promulgation and revision of administrative regulations.

(3) Members of the Physician Assistant Advisory Committee shall be appointed by the board for four (4) year terms and shall consist of:

(a) Five (5) practicing physician assistants;

(b) Two (2) supervising physicians;

(c) One (1) member of the board; and

(d) One (1) citizen at large.

(4) The chairperson of the committee shall be elected by a majority vote of the committee members and shall be responsible for presiding over meetings that shall be held on a regular basis.

(5) Members shall receive reimbursement for expenditures relating to attendance at committee meetings consistent with state policies for reimbursement of travel expenses for state employees.

(6) Nothing in this chapter shall be construed to require certification of a physician assistant student enrolled in a physician assistant or surgeon assistant program accredited by the Accreditation Review Commission Education for Physician Assistants or its successor agencies or of a physician assistant employed in the service of the federal government while performing duties relating to that employment.

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) To be certified by the board as a physician assistant, an applicant shall:

(a) Submit a completed application form with the required fee;

(b) Be of good character and reputation;

(c) Be a graduate of an approved program; and

(d) Have passed an examination approved by the board within three (3) attempts.

(2) A physician assistant who is authorized to practice in another state and who is in good standing may apply for certification by endorsement from the state of his or her credentialing if that state has standards substantially equivalent to those of this Commonwealth.

(3) A physician assistant's certification shall be renewed upon fulfillment of the following requirements:

(a) The holder shall be of good character and reputation;

(b) The holder shall provide evidence of completion during the previous two (2) years of a minimum of one hundred (100) hours of continuing education approved by the American Medical Association, the American Osteopathic Association, the American Academy of Family Physicians, the American Academy of Physician Assistants, or by another entity approved by the board;

(c) The holder shall provide evidence of completion of a continuing education course on the human immunodeficiency virus and acquired immunodeficiency syndrome in the previous ten (10) years that meets the requirements of KRS 214.610; and

(d) The holder shall provide proof of current certification with the National Commission on Certification of Physician Assistants.

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The examination of the National Commission on Certification of Physician Assistants for certification as a physician assistant shall be approved by the board.

(2) Educational and training programs approved by the board shall include physician assistant programs that are accredited by the Accreditation Review Commission on Education for Physician Assistants or its predecessor or successor agencies.

(3) Training programs for the provision of general or regional anesthesia shall be accredited by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs.

(4) A trainee enrolled in an approved program shall be supervised and the training program shall be responsible for the services provided by the trainee. A trainee shall have the same scope of practice as a physician assistant and shall not be considered to be practicing without authorization while enrolled in a training program.

SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "medical emergency" means a real and substantial threat to public health or the health of an individual as determined by the executive director of the board that requires additional professional resources.

(2) In a medical emergency, the board may approve an additional physician assistant for a supervising physician

practicing in this Commonwealth for a period not to exceed thirty (30) days who:

(a) Submits satisfactorily completed forms to the board; and

(b) Is credentialed and in good standing in this Commonwealth.

(3) In a medical emergency, the board may issue an emergency permit to a physician assistant who:

(a) Is credentialed and in good standing in another state or Canadian province;

(b) Submits satisfactorily completed forms to the board; and

(c) Based on verifiable information, meets the requirements for regular certification under Section 25 of this Act.

(4) An emergency permit:

(a) Shall be valid for a period of time not to exceed thirty (30) days;

(b) Shall not be renewed or reissued and shall be immediately canceled if a medical emergency no longer exists;

(c) May be canceled by the executive director upon reasonable cause without a prior hearing; and

(d) Shall not authorize a physician assistant to practice beyond a specified geographical area, beyond the scope of practice encompassed by the medical emergency, or without the supervision of a supervising physician.

SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The board may revoke, suspend, deny, decline to renew, limit, or restrict the certification of a physician assistant, or may fine, reprimand or place a physician assistant on probation for no more than five (5) years upon proof that a physician assistant has:

(a) Knowingly made or presented or caused to be made or presented any false, fraudulent, or forged statement, writing, certificate, diploma, or other document relating to an application for certification;

(b) Practiced, aided, or abetted in the practice of fraud, forgery, deception, collusion, or conspiracy relating to an examination for certification;

(c) Been convicted by any court of a misdemeanor offense involving moral turpitude or been convicted of an act that is or would be a felony under the laws of the Commonwealth of Kentucky or of the United States;

(d) Become addicted to or is an abuser of alcohol, drugs, or any illegal substance;

(e) Developed a physical or mental disability or other condition that presents a danger in continuing to practice medicine to patients, the public, or other health care personnel;

(f) Knowingly made or caused to be made or aided or abetted in the making of a false statement in any document executed in connection with the practice of medicine or osteopathy;

(g) Performed any act or service as a physician assistant without a designated supervising physician;

(h) Exceeded the scope of medical services described by the supervising physician in the applications required under Section 30 of this Act;

(i) Exceeded the scope of practice for which the physician assistant was credentialed by the governing board of a hospital or licensed health care facility under Sections 31 and 32 of this Act;

(j) Aided, assisted, or abetted the unlawful practice of medicine or osteopathy or any healing art including the unlawful practice of physician assistants;

(k) Willfully violated a confidential communication;

(l) Performed the services of a physician assistant in an unprofessional, incompetent, or grossly or chronically negligent manner;

(m) Been removed, suspended, expelled, or placed on probation by any health care facility or professional society for unprofessional conduct, incompetence, negligence, or violation of any provision of this section or Section 32 or 34 of this Act;

(n) Violated any applicable provision of administrative regulations relating to physician assistant practice;

(o) Violated any term of probation or other discipline imposed by the board; or

(p) Failed to complete the required number of hours of approved continuing education.

(2) All disciplinary proceedings against a physician assistant shall be conducted in accordance with the provisions of Sections 13 and 15 of this Act, KRS 311.593, 311.599, and KRS Chapter 13B and related administrative regulations promulgated under KRS Chapter 311.

SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) At any time when an inquiry panel established under Section 13 of this Act has probable cause to believe that a physician assistant has violated the terms of an agreed order as defined in subsection (19) of Section 4 of this Act, or violated the terms of a disciplinary order, or that a physician assistant's practice constitutes a danger to the health, welfare, or safety of his or her patients or the general public, the inquiry panel may issue an emergency order in accordance with KRS 13B.125 suspending, limiting, or restricting the physician assistant's certification.

(2) For the purposes of a hearing conducted under KRS 13B.125 on an emergency order issued under this section, the findings of fact in the emergency order shall constitute a rebuttable presumption of substantial evidence of a violation of law that constitutes immediate danger to the health, welfare, or safety of patients or the general public. For the purposes of this hearing only, hearsay shall be admissible and may serve as a basis of the board's findings.

(3) An emergency order as described in subsection (1) of this section shall not be issued unless grounds exist for the issuance of a complaint. The inquiry panel shall issue a complaint prior to the date of the emergency hearing or the emergency order shall become void.

(4) An order of temporary suspension, restriction, or limitation shall not be maintained after a final order as defined in subsection (20) of Section 4 of this Act is served on the charged physician assistant pursuant to the proceeding on the complaint. An appeal of an emergency order shall not prejudice the board from proceeding with the complaint.

SECTION 30. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A physician shall not supervise a physician assistant without approval of the board. Failure to obtain board approval as a supervising physician or failure to comply with the requirements of Sections 23 to 34 of this Act or related administrative regulations shall be considered unprofessional conduct and shall be subject to disciplinary action by the board that may include revocation, suspension, restriction, or placing on probation the supervising physician's right to supervise a physician assistant.

(2) To be approved by the board as a supervising physician, a physician shall:

- *(a) Be currently licensed and in good standing with the board;*
- *(b) Maintain a practice primarily within this Commonwealth. The board in its discretion may modify or waive this requirement;*
- *(c) Submit a completed application and the required fee to the board. The application shall include but is not limited to:*
  - *1. A description of the nature of the physician's practice;*
  - *2. A statement of assurance by the supervising physician that the scope of medical services and procedures described in the application or in any supplemental information shall not exceed the normal scope of practice of the supervising physician;*
  - *3. A description of the means by which the physician shall maintain communication with the physician assistant when they are not in the same physical location;*
  - *4. The name, address, and area of practice of one (1) or more physicians who agree in writing to accept responsibility for supervising the physician assistant in the absence of the supervising physician; and*
  - *5. A description of the scope of medical services and procedures to be performed by the physician assistant for which the physician assistant has been trained in an approved program.*

(3) Prior to a physician assistant performing any service or procedure beyond those described in the initial application submitted to the board under subsection (2)(c) of this section, the supervising physician shall supplement that application with information that includes but is not limited to:

- *(a) A description of the additional service or procedure;*
- *(b) A description of the physician assistant's education, training, experience, and institutional credentialing;*
- *(c) A description of the level of supervision to be provided for the additional service or procedure; and*
- *(d) The location or locations where the additional service or procedure will be provided.*

The initial and supplemental applications required under this section may be submitted to the board at the same time.

(4) A physician who has been supervising a physician assistant prior to the effective date of this Act may continue supervision and the physician assistant may continue to perform all medical services and procedures that were provided by the physician assistant prior to the effective date of this Act. The supervising physician shall submit the initial application and any supplemental application as required in this section by October 15, 2002.

(5) A physician may enter into supervision agreements with a maximum of four (4) physician assistants but shall not supervise more than two (2) physician assistants at any one (1) time. Application for board approval to be a supervising physician shall be obtained individually for each physician assistant.

(6) The board may impose restrictions on the scope of practice of a physician assistant or on the methods of supervision by the supervising physician upon consideration of recommendations of the Physician Assistant Advisory Committee established in Section 24 of this Act after providing the applicant with reasonable notice of its intended action and after providing a reasonable opportunity to be heard.

SECTION 31. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

A supervising physician shall:

(1) Restrict the services of a physician assistant to services within the physician assistant's scope of practice and to the provisions of Sections 32 to 34 of this Act;

(2) Prohibit a physician assistant from prescribing or dispensing controlled substances;

(3) Inform all patients in contact with a physician assistant of the status of the physician assistant;

(4) Post a notice stating that a physician assistant practices medicine or osteopathy in all locations where the physician assistant may practice;

(5) Require a physician assistant to wear identification that clearly states that he or she is a physician assistant;

(6) Prohibit a physician assistant from independently billing any patient or other payor for services rendered by the physician assistant;

(7) If necessary, participate with the governing body of any hospital or other licensed health care facility in a credentialing process established by the facility;

(8) Not require a physician assistant to perform services or other acts that the physician assistant feels incapable of carrying out safely and properly;

(9) Maintain adequate, active, and continuous supervision of a physician assistant's activities to assure that the physician assistant is performing as directed and complying with the requirements of Sections 23 to 34 of this Act and all related administrative regulations;

(10) Sign all records of service rendered by a physician assistant in a timely manner as certification that the physician assistant performed the services as delegated;

(11) (a) Reevaluate the reliability, accountability, and professional knowledge of a physician assistant two (2) years after the physician assistant's original certification in this Commonwealth and every two (2) years thereafter; and

(b) Based on the reevaluation, recommend approval or disapproval of certification or recertification to the board; and

(12) Notify the board within three (3) business days if the supervising physician:

(a) Ceases to supervise or employ the physician assistant; or

(b) Believes in good faith that a physician assistant violated any disciplinary rule of Sections 23 to 34 of this Act or related administrative regulations.

SECTION 32. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A physician assistant may perform medical services and procedures within the scope of medical services and procedures described in the initial or any supplemental application received by the board under Section 30 of this Act.

(2) A physician assistant shall be considered an agent of the supervising physician in performing medical services and procedures described in the initial application or any supplemental application received by the board under Section 30 of this Act.

(3) A physician assistant may initiate evaluation and treatment in emergency situations without specific approval.

(4) A physician assistant may prescribe and administer all nonscheduled legend drugs and medical devices as delegated by the supervising physician. A physician assistant who is delegated prescribing authority may request, receive, and distribute professional sample drugs to patients.

(5) A physician assistant shall not submit direct billing for medical services and procedures performed by the physician assistant.

(6) A physician assistant may perform local infiltrative anesthesia under the provisions of subsection (1) of this section, but a physician assistant shall not administer or monitor general or regional anesthesia unless the requirements of Section 34 of this Act are met.

(7) A physician assistant may perform services in the offices or clinics of the supervising physician. A physician assistant may also render services in hospitals or other licensed health care facilities only with written permission of the facility's governing body, and the facility may restrict the physician assistant's scope of practice within the facility as deemed appropriate by the facility.

(8) A physician assistant shall not practice medicine or osteopathy independently. Each physician assistant shall practice under supervision as defined in Section 23 of this Act.

SECTION 33. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A supervising physician who uses the services of a physician assistant in an office or clinic separate from the physician's primary office shall submit for board approval a specific written request that describes the services to be provided by the physician assistant in the separate office or clinic, the distance between the primary office and the separate location, and the means and availability of direct communication at all times with the supervising physician.

(2) A physician assistant shall not practice medicine or osteopathy in an office, clinic, or separate location from the supervising physician unless the physician assistant has two (2) continuous years of experience in a non-separate location. The board in its discretion may modify or waive the requirements of this subsection.

(3) Except as provided by Section 34 of this Act, a physician assistant may perform services when the supervising

physician is not physically present in the supervising physician's office or clinic when a reliable means of direct communication with the supervising physician is available at all times.

(4) Except as provided by Section 34 of this Act, a physician assistant may perform services when the supervising physician is not physically present in a hospital or other licensed health care facility when a reliable means of direct communication with the supervising physician is available at all times and the hospital or facility has given specific approval for the provision of physician assistant services without the physical presence of the supervising physician.

SECTION 34. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A physician assistant who was practicing as an anesthesiology assistant in Kentucky prior to the effective date of this Act, may continue to practice if the physician assistant:

- *(a) Met the practice, education, training, and certification requirements specified in Sections 25 and 26 of this Act;*
- *(b) Is a graduate of an approved program accredited by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs that is specifically designed to train an individual to administer general or regional anesthesia; and*
- *(c) Is employed by a supervising physician in anesthesia.*

(2) A physician assistant who has not practiced as an anesthesiology assistant in Kentucky prior to the effective date of this Act, shall meet the following requirements prior to practicing as an anesthesiology assistant:

- *(a) Graduation from an approved four (4) year physician assistant program as specified in subsection (1)(b) of this section and graduation from another two (2) year approved and accredited program that consists of academic and clinical training in anesthesiology;*
- *(b) Compliance with the practice, education, training, and certification requirements specified in Sections 25 and 26 of this Act; and*
- *(c) Employment with a supervising physician in anesthesia.*

(3) A physician assistant practicing as an anesthesiology assistant shall not administer or monitor general or regional anesthesia unless the supervising physician in anesthesia:

- *(a) Is physically present in the room during induction and emergence;*
- *(b) Is not concurrently performing any other anesthesiology procedure; and*
- *(c) Is available to provide immediate physical presence in the room.*

Section 35. KRS 217.015 is amended to read as follows:

For the purposes of KRS 217.005 to 217.215:

(1) "Advertisement" means all representations, disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;

(2) "Bread" and "enriched bread" mean only the foods commonly known and described as white bread, white rolls, white buns, enriched white bread, enriched rolls, and enriched white buns, as defined under the federal act;

(3) "Cabinet" means the Cabinet for Health Services or its designee;

(4) "Color" means but is not limited to black, white, and intermediate grays;

(5) "Color additive" means a material that:

- (a) Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source. Nothing in this paragraph shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest; or
- (b) When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with another substance, of imparting color. "Color additive" does not include any material that has been or may in the future be exempted under the federal act;

(6) "Contaminated with filth" means any food, drug, device, or cosmetic that is not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminants;

(7) "Cosmetic" means:

- (a) Articles intended to be rubbed, poured, sprinkled, sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and
- (b) Articles intended for use as a component of those articles, except that the term shall not include soap;

(8) "Device," except when used in subsection (48) of this section, KRS 217.035(6), KRS 217.065(3), KRS 217.095(3), and KRS 217.175(10), means instruments, apparatus, and contrivances, including their components, parts, and accessories,

intended:

(a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

(b) To affect the structure or any function of the body of man or other animals;

(9) "Dispense" means to deliver a drug or device to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;

(10) "Dispenser" means a person who lawfully dispenses a drug or device to or for the use of an ultimate user;

(11) "Drug" means:

(a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;

(12) "Enriched," as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of enriched flour as defined under the federal act;

(13) "Environmental Pesticide Control Act of 1972" means the Federal Environmental Pesticide Control Act of 1972, Pub. L. 92-516, and all amendments thereto;

(14) "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and cosmetics, 15 U.S.C. secs. 1451 et seq., and all amendments thereto;

(15) "Federal act" means the Federal Food, Drug and Cosmetic Act, 21 U.S.C. secs. 301 et seq., 52 Stat. 1040 et seq., or amendments thereto;

(16) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of substances used for flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed. This definition does not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if the compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending, or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;

(17) "Flour" means only the foods commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;

(18) "Food" means:

(a) Articles used for food or drink for man or other animals;

(b) Chewing gum; and

(c) Articles used for components of any such article;

(19) "Food additive" means any substance the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any of these uses, if the substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that the term does not include:

(a) A pesticide chemical in or on a raw agricultural commodity;

(b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity;

(c) A color additive; or

(d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq.; or the Meat Inspection Act of 1907; and amendments thereto;

(20) "Food processing establishment" means any commercial establishment in which food is manufactured, processed, or packaged for human consumption, but does not include retail food establishments;

(21) "Food service establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including, but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; charitable food kitchens; or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It does not include food vending machines, establishments serving beverages only in single service or original containers, or retail food stores which only cut, slice, and prepare cold-cut sandwiches for individual consumption;

(22) "Food storage warehouse" means any establishment in which food is stored for subsequent distribution;

(23) "Immediate container" does not include package liners;

(24) "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent illness or injury based on:

(a) The number of potential illnesses or injuries; or

(b) The nature, severity, and duration of the anticipated illness or injury;

(25) "Interference" means threatening or otherwise preventing the performance of lawful inspections or duties by agents of the cabinet during all reasonable times of operation;

(26) "Label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of the article, or is easily legible through the outside container or wrapper;

(27) "Labeling" means all labels and other written, printed, or graphic matter:

(a) Upon an article or any of its containers or wrappers; or

(b) Accompanying the article;

(28) "Legend drug" means a drug defined by the Federal Food, Drug and Cosmetic Act, as amended, and under which definition its label is required to bear the statement "Caution: Federal law prohibits dispensing without prescription.";

(29) "Meat Inspection Act" means the Federal Meat Inspection Act, 21 U.S.C. secs. 71 et seq., 34 Stat. 1260 et seq., including any amendments thereto;

(30) "New drug" means:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under prescribed conditions, has become so recognized, but which has not, otherwise than in the investigations, been used to a material extent or for a material time under the conditions;

(31) "Official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them;

(32) "Person" means an individual, firm, partnership, company, corporation, trustee, association, or any public or private entity;

(33) "Pesticide chemical" means any substance that alone in chemical combination, or in formulation with one or more other substances, is an "economic poison" within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act and amendments thereto, and that is used in the production, storage, or transportation of raw agricultural commodities;

(34) "Poultry Products Inspection Act" means the Federal Poultry and Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq., Pub. L. 85-172, 71 Stat. 441, and any amendments thereto;

(35) "Practitioner" means medical or osteopathic physicians, dentists, chiropodists, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices. "Practitioner" includes optometrists when administering or prescribing pharmaceutical agents authorized in KRS 320.240(12) to (14), advanced registered nurse practitioners as authorized in KRS 314.011 and 314.042, and physician assistants when administering or prescribing pharmaceutical agents as authorized in ***Section 32 of this Act***[~~KRS 311.560(3) and (4)~~];

(36) "Prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, that is signed, given, or authorized by a medical, dental, chiropody, veterinarian, or optometric

practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(37) "Prescription blank" means a document that conforms with KRS 217.216 and is intended for prescribing a drug to an ultimate user;

(38) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;

(39) "Retail food establishment" means any food service establishment, retail food store, or a combination of both within the same establishment;

(40) "Retail food store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but does not include establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, or food processing establishments;

(41) "Salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise trafficking in any salvaged merchandise;

(42) "Salvage processing plant" means an establishment operated by a person engaged in the business of reconditioning, labeling, relabeling, repackaging, recoopering, sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifices, cosmetics, single-service food containers or utensils, containers and packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a similar nature that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means;

(43) "Second or subsequent offense" has the same meaning as it does in KRS 218A.010;

(44) "Secretary" means the secretary of the Cabinet for Health Services;

(45) "Temporary food service establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days;

(46) "Traffic" has the same meaning as it does in KRS 218A.010;

(47) "Ultimate user" has the same meaning as it does in KRS 218A.010;

(48) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts that are material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under the conditions of use as are customary or usual;

(49) The representation of a drug in its labeling or advertisement as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body; and

(50) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of those articles for sale, the sale, dispensing, and giving of those articles, and the supplying or applying of those articles in the conduct of any food, drug, or cosmetic establishment.

Section 36. The following KRS sections are repealed:

311.567 Authority for administrative regulations -- Physician Assistant Advisory Committee.

311.618 Committee's immunity for official acts.".

Floor Amendment No. 1 to the Committee Substitute to **HB 602**, by Representative Pullin:

On page 57, between lines 9 and 10, by inserting:

"***For an eligible company, within a regional industrial park which lies within two (2) or more counties, the calculation of the wage and benefit requirement shall be determined based on that county within the regional industrial park which has the lowest average county hourly wage.***"

Floor Amendment No. 3 to the Committee Substitute to **HB 593**, by Representative Fischer:

On page 2, after line 4 by inserting the following:

"Section 2. KRS 156.070 is amended to read as follows:

(1) The Kentucky Board of Education shall have the management and control of the common schools and all programs operated in these schools, including interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for the Blind, and community education programs and services.

(2) The Kentucky Board of Education may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations, and bylaws of any organization or agency so designated shall be approved by the board, and provided further that any administrative hearing conducted by the designated managing organization or agency shall be conducted in accordance with KRS Chapter 13B.

(a) The state board or its designated agency shall assure through promulgation of administrative regulations that if a secondary school sponsors or intends to sponsor an athletic activity or sport that is similar to a sport for which National Collegiate Athletic Association members offer an athletic scholarship, the school shall sponsor the athletic activity or sport for which a scholarship is offered. The administrative regulations shall specify which athletic activities are similar to sports for which National Collegiate Athletic Association members offer scholarships.

(b) The state board or any agency designated by the state board to manage interscholastic athletics shall not promulgate rules, administrative regulations, or bylaws which prohibit pupils in grades seven (7) to eight (8) from participating in any high school sports except for high school varsity soccer and football, or from participating on more than one (1) school-sponsored team at the same time in the same sport. The Kentucky Board of Education, or an agency designated by the board to manage interscholastic athletics, may promulgate administrative regulations restricting, limiting, or prohibiting participation in high school varsity soccer and football for students who have not successfully completed the eighth grade.

(c) Any student who turns nineteen (19) years of age prior to August 1 shall not be eligible for high school athletics in Kentucky. Any student who turns nineteen (19) years of age on or after August 1 shall remain eligible for that school year only.

(d) If the state board or any agency designated by the state board to manage interscholastic athletics promulgates administrative regulations that permit a school district to employ or assign nonteaching personnel to serve in a coaching position, those administrative regulations shall apply to all sports and sports activities, including basketball and football. The administrative regulations shall give preference to the hiring or assignment of certified personnel over nonteaching personnel in coaching positions.

(e) 1. A high school team may compete at a classification level higher than the classification level based on enrollment determined by the Kentucky Board of Education or the organization or agency designated by the board to manage interscholastic athletics if:

a. The local board of education approves the classification change;

b. The local board of education applies for a classification change to the Kentucky Board of Education or the organization or the agency designated by the board to manage interscholastic athletics by July 30 of the year prior to the effective change of classification; and

c. The school is in compliance with the administrative regulations promulgated by the Kentucky Board of Education relating to interscholastic athletics and the rules, regulations, and bylaws of the organization or agency designated by the board to manage interscholastic athletics.

2. The Kentucky Board of Education or the organization or agency designated by the board to manage interscholastic athletics shall determine the classification of schools not wishing to change classifications without regard to the new classification of a school receiving a classification change.

(3) (a) The Kentucky Board of Education is hereby authorized to lease from the State Property and Buildings Commission, or others, whether public or private, any lands, buildings, structures, installations, and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. The lease may be for any initial term commencing with the date of the lease and ending with the next ensuing June 30, which is the close of the then-current fiscal biennium of the Commonwealth, with exclusive options in favor of the board to renew the same for successive ensuing bienniums, July 1 in each even year to June 30 in the next ensuing even year; and the rentals may be fixed at the sums in each biennium, if renewed, sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on, and provide reserves for, any revenue bonds which the State Property and Buildings Commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring the television and related facilities, with appurtenances, and costs as may be incident to the issuance of the bonds.

(b) Each option of the Kentucky Board of Education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the chief state school officer, and delivered to the secretary of the Finance and Administration Cabinet as a member of the commission. The option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the Finance and Administration Cabinet before the close of business on the last working day in April immediately preceding the beginning of the succeeding biennium.

(c) The Kentucky Board of Education shall not itself operate leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the chief state school officer and the Department of Education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to the reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any lease and to the cost of providing for the operation of the television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises, and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

(4) The state board may, on the recommendation and with the advice of the chief state school officer, prescribe, print, publish, and distribute at public expense such administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports, and placards as each deems necessary for the efficient management, control, and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by the board shall be inclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.

(5) Upon the recommendation of the chief state school officer or his designee, the state board shall establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets, and all other matters which are the administrative responsibility of the Department of Education.".

Motions, Petitions, and Communications

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 126, Representative Jenkins

HB 377, Representative Meeks

HB 618, Representatives Marcotte and De. Butler

HB 637, Representative Siler

HB 739, Representative Geveden

HCR 138, Representative Colter.

Announcements

The following meetings were announced:

Labor and Industry: Tuesday, February 26, 2002, noon, Room 125

Budget Review Subcommittee on Judiciary: Wednesday, February 27, 2002, 10:00 a.m.

Appropriations and Revenue: Tuesday, February 26, 2002, 10:00 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., on Tuesday, February 26, 2002.

The motion that the House adjourn until 2:00 p.m., on Tuesday, February 26, 2002, was adopted by voice vote.

TUESDAY, FEBRUARY 26, 2002

THIRTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Dale Anderson, Grace Evangelical Free Church, Louisville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of Monday, February 25, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Crimm moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Crimm moved the adoption of the following **Legislative Citation No. 63**.

The House of Representatives of the Commonwealth of Kentucky hereby welcomes the members of the Christian Academy of Louisville High School Chorale upon the occasion of their visit to the Chambers of the House of Representatives during this day of the Regular Session of the 2002 Kentucky General Assembly. These talented and enthusiastic students, under the skilled tutelage of Director Anita Mowery, are further offered sincere gratitude upon regaling the members of this distinguished body with tunes which showcase their musical talents and skills. The members of this august body are delighted to join Representative Ron Crimm in applauding the performance of the Christian Academy of Louisville High School Chorale; in expressing sincere appreciation to them for demonstrating their interest in the legislative process by their visit today; and in extending to them best wishes for success and good fortune as they continue to touch the lives of those for whom they most graciously perform. Done in Frankfort, Kentucky, this twenty-sixth day of February, in the year two thousand and two.

Legislative Citation No. 63 was adopted without objection.

Introduction of Bills and Resolutions

HB 763, by Representative Westrom: AN ACT relating to training for caregivers of long-term care.

HB 764, by Representative Yonts: AN ACT relating to enforcement of judgments.

HB 765, by Representative L. Belcher: AN ACT relating to outpatient diagnostic centers.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 754, 756, 762**

Banking and Insurance: **HB 757, 758**

Education: **HB 747, 755, HCR 185, HJR 186**

Health and Welfare: **HB 744**

Judiciary: **HB 750, 751, 753, 761, HCR 182, 184, HB 760**

Licensing and Occupations: **HB 743**

Local Government: **HB 742**

Natural Resources and Environment: **HB 745**

Seniors, Military Affairs and Public Safety: **HB 746**

State Government: **HB 748, 749, 759**

Tourism Development and Energy: **HB 752**

Transportation: **HJR 180, 181**

Report of Committees

The Committee on Rules reported that **HB 39** and **HB 180** have been posted for passage in the Orders of the Day for February 27, 2002.

The Committee on Natural Resources and Environment reported **HB 705** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 705, AN ACT relating to oil and gas conservation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 353.580 is amended to read as follows:

(1) Each permit issued under KRS 353.500 to 353.720 shall expire one (1) year after the date issued, unless the drilling, deepening or reopening of a well is commenced pursuant thereto prior to the expiration of the one (1) year period. *However the permit term shall be extended by one (1) year if, prior to the expiration date, the permit applicant notifies the department in writing of the applicant's request for an extension, submits an affidavit stating that the information in the original permit application is still correct, and submits a fee for the extension in an amount equal to the permit fee required by KRS 353.590.*

(2) All permits issued by the department under any previous statute shall continue in force as written, only if the drilling of the well has been commenced pursuant thereto on or before sixty (60) days after June 16, 1960.

The Committee on Seniors, Military Affairs and Public Safety reported **HB 583,** with Committee Substitute attached thereto, **HB 613, HB 672, HB 720,** and **HCR 162** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 583, AN ACT relating to the commemoration of Kentucky Vietnam War POW/MIA's.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) To honor those Kentuckians who proudly served their country during the Vietnam War but remain unaccounted for, the Department of Military Affairs shall update the plaque at the base of the Freedom Tree near the Floral Clock on the grounds of the New Capitol Annex to contain the names of Kentucky Vietnam War POW/MIAs from the most recent official accounting available from the United States Department of Defense. The plaque shall also contain a depiction of the POW/MIA flag of the National League of Families of American Prisoners of War and Missing in Southeast Asia.

(2) The Department of Military Affairs shall be responsible for the design of the new plaque required by subsection (1) of this section, and the plaque shall be paid for out of funds appropriated for the expenses of the Department of Military Affairs.

(3) The Department of Facilities Management in the Finance and Administration Cabinet shall be responsible for the maintenance of the Freedom Tree and its memorial plaque.

The Committee Substitute to **HB 583** is as follows:

HB 583, AN ACT relating to the commemoration of Kentucky Vietnam War POW/MIAs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) To honor those Kentuckians who proudly served their country during the Vietnam War but remain unaccounted for, the Department of Veterans' Affairs shall update the plaque at the base of the Freedom Tree near the Floral Clock on the grounds of the New Capitol Annex to contain the names of Kentucky Vietnam War POW/MIAs from the most recent official accounting available from the United States Department of Defense. The plaque shall also contain a depiction of the POW/MIA flag of the National League of Families of American Prisoners of War and Missing in Southeast Asia.

(2) The Department of Veterans' Affairs shall be responsible for the design of the new plaque required by subsection (1) of this section, and the plaque shall be paid for by the Department of Veterans' Affairs. The Department of Veterans' Affairs may receive appropriations, gifts, grants, federal funds, and any other funds, both public and private, to defray the cost of updating the plaque.

(3) The Department of Facilities Management shall be responsible for preparing the base for the updated plaque, and for installing the plaque. The Department of Facilities Management shall be reimbursed the cost of the installation by the Department of Veterans' Affairs. The Department of Facilities Management shall also be responsible for the routine maintenance of the Freedom Tree, the memorial plaque, and the grounds surrounding the tree and plaque.

HB 613, AN ACT relating to the Kentucky Military History Museum and Committee.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.345 is amended to read as follows:

(1) There is established the Kentucky Military Museum which shall be housed in the Old State Arsenal, and shall serve as repository of objects relating to the Commonwealth's military history.

(2) The Kentucky Historical Society and its staff shall maintain the museum, receive, store and catalogue all military historical items, and exercise fiduciary responsibility in the preservation and maintenance of the Old State Arsenal and all objects placed therein ***and loaned for display therein***.

(3) The Department for Military Affairs and the adjutant general shall provide the Old State Arsenal as the museum facility, shall maintain and operate the building and grounds, and shall cooperate in contributing items of military history for display within the museum.

(4) There is hereby created the Kentucky Military Museum Committee which shall establish policies and procedures for operation of the Military Museum.

(5) (a) The committee shall be composed of the ***following:***

  1. The adjutant general***, as an ex officio voting member;***

  2. The[~~ and~~] director of the Historical Society, ***as an ex officio voting member;***[~~both serving ex officio,~~] and

  3. Twelve (12)[~~ six (6)~~] members[~~, each selected from lists of three (3) nominees, with three (3) lists submitted from each ex officio member, all appointed by the Governor to serve for terms of four (4) years. The Governor shall also appoint a chairman of the committee from its membership~~].

(b) The committee members appointed by the Governor shall be selected alternately from a list of three (3) nominees as each vacancy occurs, beginning with a list submitted by the adjutant general, with the following list to be submitted by the director of the Historical Society when the next vacancy occurs. Both the adjutant general and the director of the Historical Society shall submit at least one (1) nominee with service in a branch of the military service and the ex officio members and the Governor shall give due consideration to fair representation on the committee from all branches of the military service.

(c) The committee members appointed by the Governor shall serve four (4) year terms and, if a vacancy occurs, newly appointed members shall serve the remaining term of the member to be replaced. All vacancies shall be filled within thirty (30) days of notice to the Governor that a vacancy exists, and such notice shall be served promptly by the ex officio members.

(d) Committee members may be removed for cause by a majority vote of the members present at a meeting and constituting a quorum. Failure to attend less than half of the meetings in a year shall be sufficient cause. The year specified in this paragraph shall begin on the calendar day of the member's appointment by the Governor and it shall end three hundred and sixty-five (365) days later.

(e) No committee member shall serve more than two (2) consecutive terms. A member appointed to a partial term vacancy exceeding two (2) years shall be deemed to have served a full term. A former member may be reappointed following an absence of one (1) term.

(f) The Governor shall appoint, for a two (2) year term, a chairman of the committee from its members who shall submit proposed rules of procedure to the committee for the duration of his or her term. Within thirty (30) days of the expiration of the chairman's term, or after his or her removal or otherwise becoming unavailable to serve, the Governor shall appoint a replacement chairman from the existing committee membership. A vice chairman and a secretary shall be selected by a majority vote of the members present at a meeting and constituting a quorum, and each shall be selected by the committee at the first such meeting following a vacancy in that position.

(6)[~~(5)~~] The Military Museum and committee shall be attached to the Kentucky Historical Society for administrative and other purposes.

Section 2. (1) Within thirty days of the effective date of this Act, the Governor shall appoint members from lists submitted by the ex officio members in accordance with paragraph (5)(b) of Section 1 of this Act for any vacancies during this time. These terms shall be staggered by one year upon each successive appointment, the first member to serve a term of one year with each successive member to serve one more year than the prior appointed member's term. This cycle shall begin again for every fifth member appointed to a vacancy so that no member shall be appointed to a term that exceeds four years in length.

(2) The existing committee members serving on the effective date of this Act shall serve the remainder of their terms, unless removed for cause in accordance with paragraph (2)(d) of Section 1 of this Act or otherwise become unavailable to complete their terms. The appointments for these vacancies shall proceed within thirty days of that time and in accordance with the procedure for staggering terms outlined in subsection (1) of this section.

HB 672, AN ACT relating to war memorial commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 97.630 is amended to read as follows:

(1) Any city of the first class that has constructed a war memorial under the provisions of Chapter 23 of the Acts of 1922 shall have a memorial commission consisting of seven (7) members. Members shall be not less than twenty-five (25) years of age and shall be bona fide residents of the county in which the city is situated. Upon the expiration of the terms of the members of the commission appointed or elected under the provisions of Chapter 23 of the Acts of 1922, the remaining members of the commission shall elect members to succeed those whose terms have expired, to serve for terms of seven (7) years each, and annually thereafter members to succeed those whose terms have expired shall be elected for terms of seven (7) years each by the remaining members of the commission. Vacancies in the terms of members shall be filled by the remaining members of the commission. Members selected to fill vacancies shall serve for the unexpired term. The members of the commission shall serve without compensation, but shall be allowed their necessary expenses for travel when engaged on the business of the commission.

(2) A city of the second, third, fourth, fifth or sixth class that has constructed a war memorial under the provisions of Chapter 128 of the Acts of 1946, may, by ordinance, have a memorial commission consisting of fifteen (15) members. Members of the commission shall be nominated and appointed by the mayor and approved by the city legislative body. Five (5) of said members shall be appointed to serve five (5) years; five (5) members shall be appointed to serve six (6) years; and five (5) members shall be appointed to serve seven (7) years. Thereafter, members to succeed those whose terms have expired shall be elected by the remaining members of the commission for terms of ***three (3)***[~~seven (7)~~] years. Vacancies in the terms of members shall be filled by the remaining members of the commission. Members selected to fill vacancies shall serve for the unexpired term. The members of the commission shall serve without compensation, but shall be allowed their necessary expenses for travel when engaged in the business of the commission.

HB 720, AN ACT relating to the Kentucky National Guard.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 38 IS CREATED TO READ AS FOLLOWS:

Any right, benefit, or protection that may accrue to a member of the Kentucky National Guard under the Federal Soldiers' and Sailors' Civil Relief Act of 1940, 50 U.S.C. 501 et seq., as a result of a call to federal active duty service under Title 10 of the United States Code shall be extended to a member of the Kentucky National Guard called to active duty service under Title 32 of the United States Code, or to state active duty by the Governor of the Commonwealth of Kentucky, if the active duty orders are for a period of thirty (30) days or more.

HCR 162, A CONCURRENT RESOLUTION requesting the Legislative Research Commission to reestablish the Task Force on Senior Citizens and the Workforce.

WHEREAS, a substantial number of senior citizens demonstrate an interest in remaining in the workforce; and

WHEREAS, senior citizens represent a reservoir of talent that must be retained in the workforce; and

WHEREAS, the Task Force on Senior Citizens and the Workforce was established by 2000 RS HJR 73 to address the issue of retaining senior citizens in the workforce; and

WHEREAS, the state of Kentucky, like many other states, faces a future shortage of workers; and

WHEREAS, there is a trend both nationally and in the Commonwealth for workers to retire at an ever increasingly younger age; and

WHEREAS, a full complement of skilled workers in the state's workforce is necessary for a healthy economy and successful economic development; and

WHEREAS, the task force was delayed in meeting and was unable to comply with the directive to submit its findings and recommendations to the Governor and the Legislative Research Commission by the appointed deadline;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Kentucky Legislative Research Commission is requested to reestablish the Task Force on Senior Citizens and the Workforce to operate during the 2002 interim.

Section 2. The Task Force on Senior Citizens and the Workforce shall be composed of the following members:

(1) The Chair of the Senate State Government Committee;
(2) The Chair of the Senate Veterans, Military Affairs, and Public Protection Committee;
(3) The Chair of the House Seniors, Military Affairs, and Public Safety Committee;
(4) The Chair of the Subcommittee on Seniors of the House Seniors, Military Affairs, and Public Safety Committee;
(5) The secretary of the Kentucky Workforce Development Cabinet;
(6) The secretary of the Kentucky Labor Cabinet;
(7) The executive director of the Kentucky Education Professional Standards Board;
(8) The Kentucky state director of the National Federation of Independent Businesses or the director's designee;
(9) The director of the Kentucky Occupational Safety and Health Program;
(10) The executive director of the Commission on Small Business Advocacy or the director's designee;
(11) The president of the Kentucky Chamber of Commerce or the president's designee;
(12) The president of the Kentucky Retail Federation or the president's designee;
(13) The presidents of the Lexington and Louisville chapters of the Service Corps of Retired Executives or their designees;
(14) The president of the Kentucky Restaurant Association or the president's designee;
(15) The presidents of the Louisville and Lexington chapters of the Society for Human Resource Managers or their designees;
(16) The president of the Associated Industries of Kentucky or the president's designee;
(17) The president of the Kentucky Staffing Association or the president's designee;
(18) The director of the Sanders Brown Institute or the director's designee; and
(19) The Kentucky state director of the American Association of Retired Persons.

Section 3. The mission of this task force shall be to identify ways to facilitate the re-entry of senior citizens into the workforce in order to provide sufficient manpower to sustain the economy of Kentucky. In order to accomplish this mission, the Task Force on Senior Citizens and the Workforce shall:

(1) Identify the age characteristics of Kentucky's present and future workforce;
(2) Examine the role of senior citizens in the state's present and future workforce;
(3) Identify the accommodations and incentives necessary to attract and retain senior citizens in the workforce;
(4) Determine the needs of senior citizens to remain productive members of the workforce;
(5) Evaluate the ability of existing programs to attract and retain senior citizens in the workforce, including those intended to provide the necessary education to qualify for entry or retention in the workforce;
(6) Identify policy changes needed to attract and retain senior citizens in the workforce;
(7) Identify barriers to seniors' re-entry into the workforce; and
(8) Identify the modifications needed, in general, to employee benefits packages in order to attract senior citizens into the workforce.
(9) Recommend improvements in existing programs and the creation of new programs, if indicated, addressing senior citizens in the workforce, including programs through which prospective employers can identify and access qualified senior citizens; and
(10) Promote public awareness of the value of senior citizens in the workforce and initiate dialogue between citizens and policymakers in this regard.

Section 4. The Task Force on Senior Citizens and the Workforce shall be authorized, subject to the approval by the Legislative Research Commission, to conduct meetings throughout the state and to sponsor a conference for the purpose of gaining and exchanging information and publicizing the activities of the task force.

Section 5. The Senate co-chair of the Task Force on Senior Citizens and the Workforce shall be appointed from the Senate members by the President of the Senate, and the House co-chair shall be appointed from the House members by the Speaker of the House of Representatives.

Section 6. The Task Force on Senior Citizens and the Workforce shall submit its findings and recommendations to the Legislative Research Commission by September 30, 2002.

Section 7. Staff services for this task force shall be furnished by the Legislative Research Commission.

Section 8. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Labor and Industry reported **HB 625, HB 631,** with Committee Amendment attached thereto, and **HB 730,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 625, AN ACT relating to worker's compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.122 is amended to read as follows:

(1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose of funding and prefunding the liabilities of the special fund, financing the administration and operation of the Kentucky Workers' Compensation Funding Commission, and financing the expenditures for all programs in the Labor Cabinet, except the Division of Employment Standards, Apprenticeship and Training and the Office of Labor-Management Relations and Mediation, as reflected in the enacted budget of the Commonwealth and enacted by the General Assembly, the funding commission shall impose a special fund assessment rate of nine percent (9%) upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his or her own risk.

(b) The funding commission shall, for calendar year 1998 and thereafter, establish for the special fund an assessment rate to be assessed against all premium received during that calendar year which, when added to the coal severance tax appropriated to the special fund in accordance with paragraph (c) of this section, shall produce enough revenue to amortize on a level basis the unfunded liability of the special fund as of September 1 preceding January 1 of each year, for the period remaining until December 31, 2018. The interest rate to be used in this calculation shall reflect the funding commission's investment experience to date and the current investment policies of the commission. This assessment shall be imposed upon the amount of workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

(c) In addition to the assessment imposed in paragraph (a) or (b) of this subsection, and notwithstanding and prior to the transfer of funds to the Local Government Economic Assistance Program under KRS 42.450 to 42.495, the Kentucky Revenue Cabinet shall credit nineteen million dollars ($19,000,000) in coal severance tax revenues levied under KRS 143.020 to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission each year beginning with fiscal year 1998 and all fiscal years thereafter. The annual transfer of nineteen million dollars ($19,000,000) shall occur in four (4) equal quarterly payments. These transfers shall occur not later than the last day of each quarter of each calendar year and shall consist of four (4) equal payments of four million, seven hundred fifty thousand dollars ($4,750,000).

(d) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission.

(e) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on workers' compensation premiums.

(2) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received. Receipt shall be considered timely through actual physical receipt or by postmark of the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.

(3) The assessments imposed by this section may be collected by the insurance carrier from his insured. However, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. If the insurance carrier collects the assessment from an insured, the assessment shall be collected at the same time and in the same proportion as the premium is collected. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages imposed by this chapter. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. The percentages imposed by this chapter for an insurance policy issued by an insurance company shall be those percentages in effect on the annual effective date of the policy, regardless of the date that the premium is actually received by the insurance company.

(4) A group self-insurance association may elect to report its premiums and to have its assessments computed in the same manner as insurance companies. This election may not be rescinded for at least ten (10) years, nor may this election be made a second time for at least another ten (10) years***, except that the board of directors of the funding commission may,***

at its discretion, waive the ten (10) year ban on a case-by-case basis after formal petition has been made to the funding commission by a group self-insurance association.

(5) The funding commission, as part of the collection and auditing of the special fund assessments required by this section, shall annually require each insurance carrier and each group self-insurer to provide a list of employers which it has insured or which are members and the amount collected from each employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or group self-insurer may require its insureds or members to furnish the SIC code for each of their employees. However, the failure of any employer to furnish said codes shall not relieve the insurance carrier or group self-insurer from the obligation to furnish same to the funding commission. The Department for Employment Services, Cabinet for Workforce Development is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

(6) Each self-insured employer, group self-insurer, or insurance carrier shall provide any information and submit any reports the Revenue Cabinet or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.

(7) The special fund shall be required to maintain a central claim registry of all claims to which it is named a party, giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. The registry shall be established by January 26, 1988, for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund.

(8) The fund heretofore designated as the subsequent claim fund is abolished, and there is substituted therefor the special fund as set out by this section, and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

(9) Notwithstanding any other provisions of this section or this chapter to the contrary, the total amount of funds collected pursuant to the assessment rates adopted by the funding commission shall not be limited to the provisions of this section.

(10) All assessment rates imposed for periods prior to January 1, 1997, under KRS 342.122 shall forever remain applicable to premiums received on policies with effective dates prior to January 1, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provision of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

HB 631, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.1041 is amended to read as follows:

(1) The Mine Safety Review Commission is created as an independent governmental entity attached to the Public Protection and Regulation Cabinet for administrative purposes. The commission shall:

(a) Conduct hearings and issue orders regarding a licensee, coal operation, or other person involved in the mining of coal in accordance with KRS 351.194;

(b) Jointly with the department establish a process for the department's referral of allegations of mine safety violations to the commission for adjudication;

(c) Make any recommendations to the department that it believes appropriate upon its review, consideration, and analysis of:

1. All reports of coal mining fatalities provided by the commissioner under KRS 351.070(14);

2. Any case in which a miner or a mine owner or operator, in the professional opinion of the department has a history of significant and substantial safety violations even though there has been no serious injury or death resulting from the violations;

3. Any case in which a miner or a mine owner or operator has been convicted of a criminal charge for a violation of a federal mine safety standard or standards; and

4. Any case in which the Federal Mine Safety and Health Administration has made a recommendation relating to certification of an individual certified under this chapter.

(2) The Mine Safety Review Commission shall consist of three (3) members appointed by the Governor subject to the consent of the Senate and the House of Representatives in accordance with KRS 11.160. Of the members of the Mine Safety Review Commission first appointed under this section, one (1) shall be appointed for a term of one (1) year; one (1) shall be appointed for a term of two (2) years; and one (1) shall be appointed for a term of three (3) years. After the initial appointments, members of the board shall be appointed for terms of four (4) years. A member may be reappointed at the expiration of his or her previous term. Members shall continue to serve until a successor is appointed and qualified.

(3) The members of the Mine Safety Review Commission shall have the qualifications required of Judges of the Court of Appeals, except for residence in a district, and shall be subject to the same standards of conduct made applicable to a part-

time judge by the Rules of the Kentucky Supreme Court. The members shall receive the per diem equivalent of the salary of a Judge of the Court of Appeals for each day spent in conducting the business of the commission.

(4) The Governor shall designate a member of the Mine Safety Review Commission to serve as chair and shall fill any vacancy in the office of chair.

(5) The Governor may remove any member for good cause including violation of the Code of Judicial Conduct and repeated failure to perform satisfactorily the specific duties assigned in this chapter or KRS Chapter 352. The Governor may remove the member only after furnishing him or her with a written copy of the charges against that member and holding a public hearing if requested by the member.

(6) The commission shall meet on the call of the chair or a majority of the members of the commission.

(7) The Public Protection and Regulation Cabinet shall provide administrative services to the Mine Safety Review Commission. If the commission deems it necessary to employ hearing officers to assist it, the Public Protection and Regulation Cabinet shall employ hearing officers to assist the commission in accordance with KRS Chapter 13B, notwithstanding the provisions of KRS 13B.030(2)(b).

(8) The commission may conduct hearings, compel the attendance of witnesses, administer oaths, and conduct oversight activities as may be required to ensure the full implementation of its duties.

(9) The department shall provide the Mine Safety Review Commission with all information requested by the commission for the fulfillment of its responsibilities under this chapter and KRS Chapter 352.

(10) The secretary of the Public Protection and Regulation Cabinet shall effectuate the hiring of any staff deemed necessary and affordable for the efficient operations of the Mine Safety Review Commission. This may include an executive director, general counsel, or other policy making positions, to be appointed in accordance with KRS 12.010 and 12.050.

Section 2. The General Assembly hereby confirms Executive Order 2001-860, dated July 3, 2001, which establishes the Mine Safety Review Commission as an independent entity within the Office of the Secretary of the Public Protection and Regulation Cabinet, to the extent that it is not otherwise confirmed or superceded by this Act.

The Committee Amendment No. 1 to **HB 631** is as follows:

On page 3, line 9, by deleting "***policy making***", and inserting in lieu thereof "***administrative support***".

HB 730, AN ACT relating to workers' compensation and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.1221 is amended to read as follows:

Assessments levied pursuant to KRS 342.122 and unpaid on the date on which they are due and payable shall bear interest at the rate specified in KRS 131.183 plus a penalty of one and one-half percent (1.5%) per month or portion thereof without proration from the date on which the assessment was due and payable. The funding commission***, or its designee,*** shall have the authority to waive part or all of the penalty, but not the interest, where it is shown to the satisfaction of the commission that failure to timely pay assessments is due to reasonable cause.

Section 2. KRS 342.1242 is amended to read as follows:

(1) There is created the Division of the Kentucky Coal Workers' Pneumoconiosis Fund in the Department of Workplace Standards which shall be headed by a director appointed by the commissioner, with the prior written approval of the Governor pursuant to KRS 12.050. The director shall be responsible for overseeing the administration and legal representation of the fund and the maintenance of records regarding the payment of claims by the fund.

(2) The employer shall defend any claim brought under KRS 342.732 and upon conclusion shall seek participation in payment of the final award or settlement by the Kentucky coal workers' pneumoconiosis fund by making written request upon the director in the manner prescribed by administrative regulation to be promulgated by the commissioner of the Department of Workers' Claims.

(3) The Kentucky coal workers' pneumoconiosis fund shall have one-half (1/2) of the liability for income benefits, including retraining benefits, payable for claims brought under KRS 342.732 for last exposure incurred on or after December 12, 1996. Income benefit payments by the Kentucky coal workers' pneumoconiosis fund shall be made contemporaneous with the payments made by the employer, except that the employer shall make all payments due under a final award or approved settlement until the liability of the Kentucky coal workers' pneumoconiosis fund is established under subsection (4) of this section and the coal workers' pneumoconiosis fund shall reimburse the employer for such payments to the extent of its liability.

(4) (a) For the purpose of funding and prefunding the liabilities of the Kentucky coal workers' pneumoconiosis fund and financing the administration and operation of the Kentucky coal workers' pneumoconiosis fund, as reflected in the budget of the Commonwealth enacted by the General Assembly, a Kentucky coal workers' pneumoconiosis fund

assessment at the rate of three percent (3%) is hereby imposed upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4), from employers engaged in the severance or processing of coal. Likewise, on and after January 1, 1997, through December 31, 1997, an assessment at the rate of three percent (3%) of premium shall be paid by every employer engaged in the severance or processing of coal who is carrying his or her own risk.

(b) In addition to the assessment imposed in paragraph (a) of this subsection, an additional Kentucky coal workers' pneumoconiosis fund assessment at the rate of two and one-half cents ($0.025) per ton is hereby imposed upon the total annual amount of tons of coal severed on or after January 1, 1997, through December 31, 1997, by every entity engaged in the severance of coal as required pursuant to KRS Chapter 143.

(c) As of ***June 30, 2002***~~[September 1, 1997]~~, and each year thereafter, the funding commission shall determine the assets of the fund and the claim and administrative expense liability incurred by the fund for all previous years and shall establish the rates under the provisions of paragraphs (a) and (b) of this subsection necessary as of January 1 of the next year to fully fund and prefund all claim liabilities and administrative expenses through December 31 of the next year of operations. The assessment rate authorized by this section for premiums received and tons of coal severed shall be set so as to receive fifty percent (50%) of the needed revenue from each assessment. Notice of any rate changes shall be provided no later than December 1 of the year preceding the rate change.

(5) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to a separate account within the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission. In addition, the powers and responsibilities of the Kentucky Workers' Compensation Funding Commission including its fiduciary duties and responsibilities relating to assessments collected for the special fund pursuant to KRS 342.122, 342.1222, 342.1223, 342.1226, 342.1229, and 342.1231 shall apply to assessments collected for the Kentucky coal workers' pneumoconiosis fund created pursuant to this section. Each entity subject to assessments for the Kentucky coal workers' pneumoconiosis fund shall provide any and all information requested by the Kentucky Workers' Compensation Funding Commission necessary to carry out its powers and responsibilities relating thereto.

(6) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received or the coal is processed or severed. Receipt shall be considered timely through actual physical receipt or by postmark by the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments. Penalty and interest penalties imposed pursuant to KRS 342.1221 and the authority of the Kentucky Workers' Compensation Funding Commission to waive part or all of the penalty shall apply to assessments for the Kentucky coal workers' pneumoconiosis fund in the same manner and amount as they are imposed on assessments for the special fund under KRS 342.122.

(7) Notwithstanding any other provisions of this section or this chapter to the contrary, the total amount of funds collected pursuant to the assessment rates adopted by the funding commission shall not be limited to the provisions of this section.

(8) Claims for benefits by reason of the development of coal workers' pneumoconiosis shall be maintained pursuant to KRS 342.732, and the Kentucky coal workers' pneumoconiosis fund shall be liable for payment of a part of the liability only for employees of employers engaged in the severance or processing of coal as defined in KRS 342.0011(23)(a) and (b).

Section 3. Whereas the date change in Section 2 of this Act would occur before the Act's normal effective date,,an emergency is declared, and this Act takes effect upon its passage and approval by the Governor or its otherwise becoming a law.

The Committee Substitute to **HB 730** is as follows:

HB 730, AN ACT relating to workers' compensation and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.1221 is amended to read as follows:

Assessments levied pursuant to KRS 342.122 and unpaid on the date on which they are due and payable shall bear interest at the rate specified in KRS 131.183 plus a penalty of one and one-half percent (1.5%) per month or portion thereof without proration from the date on which the assessment was due and payable. The funding commission***, or its designee,*** shall have the authority to waive part or all of the penalty, but not the interest, where it is shown to the satisfaction of the commission that failure to timely pay assessments is due to reasonable cause.

Section 2. KRS 342.1242 is amended to read as follows:

(1) There is created the Division of the Kentucky Coal Workers' Pneumoconiosis Fund in the Department of Workplace Standards which shall be headed by a director appointed by the commissioner, with the prior written approval of the Governor pursuant to KRS 12.050. The director shall be responsible for overseeing the administration and legal representation of the fund and the maintenance of records regarding the payment of claims by the fund.

(2) The employer shall defend any claim brought under KRS 342.732 and upon conclusion shall seek participation in payment of the final award or settlement by the Kentucky coal workers' pneumoconiosis fund by making written request upon the director in the manner prescribed by administrative regulation to be promulgated by the commissioner of the Department

of Workers' Claims.

(3) The Kentucky coal workers' pneumoconiosis fund shall have one-half (1/2) of the liability for income benefits, including retraining benefits, payable for claims brought under KRS 342.732 for last exposure incurred on or after December 12, 1996. Income benefit payments by the Kentucky coal workers' pneumoconiosis fund shall be made contemporaneous with the payments made by the employer, except that the employer shall make all payments due under a final award or approved settlement until the liability of the Kentucky coal workers' pneumoconiosis fund is established under subsection (4) of this section and the coal workers' pneumoconiosis fund shall reimburse the employer for such payments to the extent of its liability.

(4) (a) For the purpose of funding and prefunding the liabilities of the Kentucky coal workers' pneumoconiosis fund and financing the administration and operation of the Kentucky coal workers' pneumoconiosis fund, as reflected in the budget of the Commonwealth enacted by the General Assembly, a Kentucky coal workers' pneumoconiosis fund assessment at the rate of three percent (3%) is hereby imposed upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4), from employers engaged in the severance or processing of coal. Likewise, on and after January 1, 1997, through December 31, 1997, an assessment at the rate of three percent (3%) of premium shall be paid by every employer engaged in the severance or processing of coal who is carrying his or her own risk.

(b) In addition to the assessment imposed in paragraph (a) of this subsection, an additional Kentucky coal workers' pneumoconiosis fund assessment at the rate of two and one-half cents ($0.025) per ton is hereby imposed upon the total annual amount of tons of coal severed on or after January 1, 1997, through December 31, 1997, by every entity engaged in the severance of coal as required pursuant to KRS Chapter 143.

(c) As of ***June 30, 2002***[~~September 1, 1997~~], and each year thereafter, the funding commission shall determine the assets of the fund and the claim and administrative expense liability incurred by the fund for all previous years and shall establish the rates under the provisions of paragraphs (a) and (b) of this subsection necessary as of January 1 of the next year to fully fund and prefund all claim liabilities and administrative expenses through December 31 of the next year of operations. The assessment rate authorized by this section for premiums received and tons of coal severed shall be set so as to receive fifty percent (50%) of the needed revenue from each assessment. Notice of any rate changes shall be provided no later than December 1 of the year preceding the rate change.

(5) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to a separate account within the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission. In addition, the powers and responsibilities of the Kentucky Workers' Compensation Funding Commission including its fiduciary duties and responsibilities relating to assessments collected for the special fund pursuant to KRS 342.122, 342.1222, 342.1223, 342.1226, 342.1229, and 342.1231 shall apply to assessments collected for the Kentucky coal workers' pneumoconiosis fund created pursuant to this section. Each entity subject to assessments for the Kentucky coal workers' pneumoconiosis fund shall provide any and all information requested by the Kentucky Workers' Compensation Funding Commission necessary to carry out its powers and responsibilities relating thereto.

(6) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received or the coal is processed or severed. Receipt shall be considered timely through actual physical receipt or by postmark by the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments. Penalty and interest penalties imposed pursuant to KRS 342.1221 and the authority of the Kentucky Workers' Compensation Funding Commission to waive part or all of the penalty shall apply to assessments for the Kentucky coal workers' pneumoconiosis fund in the same manner and amount as they are imposed on assessments for the special fund under KRS 342.122.

(7) Notwithstanding any other provisions of this section or this chapter to the contrary, the total amount of funds collected pursuant to the assessment rates adopted by the funding commission shall not be limited to the provisions of this section.

(8) Claims for benefits by reason of the development of coal workers' pneumoconiosis shall be maintained pursuant to KRS 342.732, and the Kentucky coal workers' pneumoconiosis fund shall be liable for payment of a part of the liability only for employees of employers engaged in the severance or processing of coal as defined in KRS 342.0011(23)(a) and (b).

Section 3. KRS 342.122 is amended to read as follows:

(1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose of funding and prefunding the liabilities of the special fund, financing the administration and operation of the Kentucky Workers' Compensation Funding Commission, and financing the expenditures for all programs in the Labor Cabinet, except the Division of Employment Standards, Apprenticeship and Training and the Office of Labor-Management Relations and Mediation, as reflected in the enacted budget of the Commonwealth and enacted by the General Assembly, the funding commission shall impose a special fund assessment rate of nine percent (9%) upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his or her own risk.

(b) The funding commission shall, for calendar year 1998 and thereafter, establish for the special fund an assessment rate to be assessed against all premium received during that calendar year which, when added to the coal severance tax appropriated to the special fund in accordance with paragraph (c) of this section, shall produce enough revenue to amortize on a level basis the unfunded liability of the special fund as of ***June 30***~~[September 1]~~ preceding January 1 of each year, for the period remaining until December 31, 2018. The interest rate to be used in this calculation shall reflect the funding commission's investment experience to date and the current investment policies of the commission. This assessment shall be imposed upon the amount of workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

(c) In addition to the assessment imposed in paragraph (a) or (b) of this subsection, and notwithstanding and prior to the transfer of funds to the Local Government Economic Assistance Program under KRS 42.450 to 42.495, the Kentucky Revenue Cabinet shall credit nineteen million dollars ($19,000,000) in coal severance tax revenues levied under KRS 143.020 to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission each year beginning with fiscal year 1998 and all fiscal years thereafter. The annual transfer of nineteen million dollars ($19,000,000) shall occur in four (4) equal quarterly payments. These transfers shall occur not later than the last day of each quarter of each calendar year and shall consist of four (4) equal payments of four million, seven hundred fifty thousand dollars ($4,750,000).

(d) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission.

(e) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on workers' compensation premiums.

(2) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received. Receipt shall be considered timely through actual physical receipt or by postmark of the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.

(3) The assessments imposed by this section may be collected by the insurance carrier from his insured. However, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. If the insurance carrier collects the assessment from an insured, the assessment shall be collected at the same time and in the same proportion as the premium is collected. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages imposed by this chapter. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. The percentages imposed by this chapter for an insurance policy issued by an insurance company shall be those percentages in effect on the annual effective date of the policy, regardless of the date that the premium is actually received by the insurance company.

(4) A group self-insurance association may elect to report its premiums and to have its assessments computed in the same manner as insurance companies. This election may not be rescinded for at least ten (10) years, nor may this election be made a second time for at least another ten (10) years.

(5) The funding commission, as part of the collection and auditing of the special fund assessments required by this section, shall annually require each insurance carrier and each group self-insurer to provide a list of employers which it has insured or which are members and the amount collected from each employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or group self-insurer may require its insureds or members to furnish the SIC code for each of their employees. However, the failure of any employer to furnish said codes shall not relieve the insurance carrier or group self-insurer from the obligation to furnish same to the funding commission. The Department for Employment Services, Cabinet for Workforce Development is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

(6) Each self-insured employer, group self-insurer, or insurance carrier shall provide any information and submit any reports the Revenue Cabinet or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.

(7) The special fund shall be required to maintain a central claim registry of all claims to which it is named a party, giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. The registry shall be established by January 26, 1988, for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund.

(8) The fund heretofore designated as the subsequent claim fund is abolished, and there is substituted therefor the special fund as set out by this section, and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

(9) Notwithstanding any other provisions of this section or this chapter to the contrary, the total amount of funds collected pursuant to the assessment rates adopted by the funding commission shall not be limited to the provisions of this section.

(10) All assessment rates imposed for periods prior to January 1, 1997, under KRS 342.122 shall forever remain applicable to premiums received on policies with effective dates prior to January 1, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provision of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

Section 4. Whereas the date change in Sections 2 and 3 of this Act would occur before the Act's normal effective date, an emergency is declared, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee on Appropriations and Revenue reported **HB 183,** with Committee Substitute attached thereto, **HB 234, HB 395,** and **HB 455,** with Committee Substitutes and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee Substitute No. 2 to **HB 455** is as follows:

HB 455, AN ACT relating to individuals with autism.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section and Sections 2, 3, 4, and 5 of this Act, "pervasive developmental disorders" has the same meaning as in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV). The term includes five (5) diagnostic subcategories:

(a) Autistic disorder;

(b) Pervasive disorder not otherwise specified;

(c) Asperger's disorder;

(d) Rett's disorder; and

(e) Childhood disintegrative disorder.

(2) The Department for Medicaid Services shall make application, within three (3) months of the effective date of this Act, to the federal Centers for Medicare and Medicaid Services for a waiver to provide services and supports to individuals who:

(a) Are Medicaid eligible;

(b) Have an Axis I diagnosis of a pervasive developmental disorder;

(c) Are institutionalized or at risk for institutionalization; and

(d) Require a coordinated plan of medically necessary community-based behavioral health services.

(3) The waiver application shall include services that are documented to be effective in the treatment of pervasive developmental disorders and consistent with clinical best practices.

(4) The waiver application shall specify the required credentials for the providers of each service.

(5) The cabinet shall capitate the number of children served under the waiver program to insure budget neutrality based upon the expenditures for children with Pervasive Developmental Disorders that were served under the IMPACT Plus Program during fiscal years 2001-2002:

(6) The cabinet shall include in the waiver application those items that are necessary to ensure the waiver operates within the designated dollars including, but not limited to, a maximum number of individuals to be served and a maximum dollar amount that can be expended for an individual.

(7) The waiver shall be coordinated with and shall not supplant services provided by schools under KRS Chapter 157 or services provided under KRS Chapters 200 and 347. Nothing in this section shall affect or limit a school district's ability to obtain Medicaid reimbursement for school-related health services.

(8) The Department for Medicaid Services shall report to the Governor, the Legislative Research Commission, and the Interim Joint Committee on Health and Welfare on the number of individuals receiving services under the waiver, the cost and type of services received, and any available nonidentifying information pertaining to individual outcomes.

Section 2. KRS 200.654 is amended to read as follows:

As used in KRS 200.650 to 200.676, unless the context requires otherwise:

(1) "Awards and contracts" means the state and federal funds designated by the cabinet for projects relating to planning,

resource development, or provision of direct early intervention services, as defined in this section, to infants and toddlers with disabilities and their families;

(2) "Cabinet" means the Cabinet for Health Services;

(3) "Child find" means a system to identify, locate, and evaluate all infants and toddlers with disabilities who are eligible for early intervention services, determine which children are receiving services, and coordinate the effort with other state agencies and departments;

(4) "Council" means the Kentucky Early Intervention System Interagency Coordinating Council;

(5) "District" means one (1) of the fifteen (15) area development districts;

(6) "District early intervention committee" means an interagency coordinating committee established within each of the fifteen (15) area development districts to facilitate interagency coordination at the district level;

(7) "Early intervention services" means services for infants and toddlers with disabilities and their families delivered according to an individualized family service plan developed by the child multidisciplinary team to meet the developmental needs of eligible children, as defined in this section, and provided by entities receiving public funds using qualified personnel. The individualized family services plan is developed and the services are provided in collaboration with the families and, to the maximum extent appropriate, in natural environments, including home and community settings in which infants and toddlers without disabilities would participate. These services are necessary to enable the child to reach maximum potential. Services to be made available shall include, but not be limited to, the following:

(a) Screening services;
(b) Evaluation services;
(c) Assessment services;
(d) Service coordination;
(e) Transportation and related costs for accessing early intervention services;
(f) Family services including counseling, psychological, and social work services;
(g) Health services including medical services for diagnostic and evaluation purposes only;
(h) Nutrition services;
(i) Occupational therapy services;
(j) Physical therapy services;
(k) Communication development services;
(l) Sensory development services;
(m) Developmental intervention services;
(n) Assistive technology services; and
(o) Respite services;

(8) "Early intervention system" means the management structure established in KRS 200.654 to 200.670 and which is comprised of the interdependent array of services and activities for the provision of a statewide, comprehensive, coordinated, multidisciplinary, interagency program for infants and toddlers with disabilities and their families;

(9) "Individual family service plan" means the singular comprehensive written service plan developed by the child's multidisciplinary team, with the child's parents serving as fully participating members of the team, to be followed by all agencies and other entities involved in providing early intervention services to an infant or toddler with disabilities and the child's family;

(10) "Infants and toddlers with disabilities" and "eligible children" mean children from birth to thirty-six (36) months of age in need of early intervention services as a result of one (1) of the following circumstances:

(a) The child is experiencing developmental delays, as measured by diagnostic instruments and procedures in one (1) or more of the following skill areas: physical; cognitive; communication; social or emotional; or adaptive development;[~~ or~~]

(b) The child has a diagnosed physical or mental condition which has a high probability of resulting in developmental delay; ***or***

(c) The child has a diagnosis of pervasive developmental disorder;

(11) "Multidisciplinary team" means the child-specific group responsible for determining the services needed by the infant or toddler with disabilities and the child's family, and development of the individualized family services plan. The team for each child shall include the parent or guardian of the child and individuals representing at least two (2) applicable disciplines which may include but need not be limited to the following: physical therapy; speech therapy; social work; nursing; or education;

(12) "Point of entry" means an easily identifiable, highly accessible nonstigmatized entry into services; and

(13) "Qualified service provider" means an entity, including but not limited to an individual, program, department, or agency,

responsible for the delivery of early intervention services to eligible infants and toddlers with disabilities and their families who has met the highest minimum standards of state-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the entity is providing early intervention services.

Section 3. KRS 200.660 is amended to read as follows:

The cabinet shall:

(1) Administer all funds appropriated to implement the provisions of KRS 200.650 to 200.676;

(2) Identify and coordinate all available financial resources for early intervention within the Commonwealth from federal, state, local, and private sources including, but not limited to:

- (a) Title V of the Federal Social Security Act relating to maternal and child health;
- (b) Title XIX of the Federal Social Security Act relating to Medicaid and the Early Periodic Screening Diagnostic and Treatment (EPSDT) program;
- (c) The Federal Head Start Act;
- (d) The Federal Individuals with Disabilities Education Act, Parts B and H;
- (e) The Federal Elementary and Secondary Education Act of 1964 Title I, Chapter I, Part B, Subpart 2 as amended;
- (f) The Federal Developmentally Disabled Assistance and Bill of Rights Act, P.L. 100-146;
- (g) Other federal programs; and
- (h) Private insurance.

(3) Develop a sliding fee scale of the cost of early intervention services to families, including those circumstances where no fee shall be required;

(4) ***Make available, in addition to the services specified in subsection (7) of Section 2 of this Act, social skill development and behavioral therapy services to infants and toddlers with a diagnosis of pervasive developmental disorders;***

(5) Enter into contracts with service providers within a local community aided by the district committee in identifying providers;

(6)[~~(5)~~] Develop procedures to monitor and evaluate services that are provided to infants and toddlers with disabilities and their families;

(7)[~~(6)~~] Develop procedures to ensure that early intervention services identified on the individualized family service plan are provided to eligible infants and toddlers with disabilities and their families in a timely manner pending resolution of any disputes among public agencies or service providers; and

(8)[~~(7)~~] In conjunction with the council and district early intervention committees, promulgate administrative regulations, pursuant to KRS Chapter 13A, necessary to implement the provisions of KRS 200.650 to 200.676.

Section 4. KRS 347.020 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Active treatment" means provision of services as specified in an individualized service plan. These services may include, but are not limited to activities, experiences and therapy which are part of a professionally developed and supervised program of health, social, habilitative and developmental services;

(2) "Case management services" means all such services to persons with developmental disabilities as will assist them in gaining access to needed social, medical, legal, educational and other services, and such term includes:

- (a) Follow-along services which assure, through a continuing relationship between an agency or provider and a person with a developmental disability and the person's parent, if the person is a minor, or guardian, if the person has been adjudicated legally disabled, that the changing needs of the person and the family are recognized and appropriately met; and
- (b) Coordinated services which provide to persons with developmental disabilities support, access to, and coordination of other services, information on programs and services and monitoring of the person's progress;

(3) "Habilitation" means the process described in the individualized service plan by which a person is assisted to acquire and maintain physical, mental and social skills which will enable him to live most efficiently and effectively in the least restrictive individually appropriate environment;

(4) "Individualized service plan (ISP)" means a written plan of service based on an interdisciplinary approach which is revised as needed but no less than annually. The plan shall be developed by the interdisciplinary team and shall contain a statement of:

- (a) The nature of the specific mental, physical, social and developmental needs of the person;
- (b) The specific services to be provided under this chapter, those services being provided under other state and federal laws and a schedule for the provision of said services; and
- (c) The least restrictive individually appropriate environment for the provision of services and active treatment;

(5) "Individually appropriate" means responsive to the needs of the person as determined through interdisciplinary assessment

and provided pursuant to an individualized service plan;

(6) "Interdisciplinary team (IDT)" means those persons who work most directly with the individual in each of the professions, disciplines and service areas that provide active treatment, services and evaluations for the person, including the persons set forth in KRS 347.030(6). Prior to relocation to a more individually appropriate placement in accordance with his individualized service plan, the IDT shall include staff representing the current placement and staff representing the proposed placement;

(7) "Least restrictive environment" means the individually appropriate residence and service delivery setting, including the entire array of residential alternatives as defined by this chapter, in which the person can function most effectively and independently, gaining to the maximum extent possible, control over his environment, and shall be based solely on his needs as identified in his individualized service plan. This definition shall not be construed to abolish any existing residential or institutional alternatives as defined by this chapter;

(8) "Monitor" means to conduct a systematic, coordinated, objective qualitative review of services by a body independent of the agencies providing services under this chapter. This body shall include persons with developmental disabilities, parents, guardians and professionals;

(9) "Person with a developmental disability" means a person with a long term disability which:

(a) Is attributable to a developmental or physical impairment or combination of developmental and physical impairments***, including pervasive developmental disorders***;

(b) Is likely to continue indefinitely;

(c) Results in substantial functional limitations in at least three (3) of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living and economic self-sufficiency;

(d) Requires special, generic or interdisciplinary care and active treatment and services of extended duration; and

(e) Is manifested before the person attains age twenty-two (22); and

(10) "Representative" means any individual who can advise and advocate for a person with developmental disabilities and who shall serve at the request and pleasure of such person; provided, however, if the person with developmental disabilities is a minor or is legally disabled and has not requested a representative, the parent or guardian may request a representative to assist on behalf of a person with developmental disabilities;

(11) "Residence" or "residential alternative" means the living space occupied by the person with a developmental disability, including single-person homes, natural family homes, institutional facilities and all other types of living arrangements; and

(12) "Services" means such residential, developmental, vocational, support and related services, training and active treatment in the least restrictive, individually appropriate environment to provide for continuing development of independent or interdependent living skills of persons with developmental disabilities. These services include, but are not restricted to, diagnostic services; child development services; respite care; domestic assistance; consumer-directed attendant care; habilitation and rehabilitation***, including behavioral therapies***; speech, physical and occupational therapy; recreational therapy and activities; training for parents, guardians and care providers as requested by said persons; transportation; equipment; development of language and communication skills; interpreters; family counseling and case management.

Section 5. KRS 387.510 is amended to read as follows:

As used in KRS 387.500 to 387.770 and 387.990:

(1) "Conservator" means an individual, agency, or corporation appointed by the court to manage the financial resources of a disabled person.

(2) "Limited conservator" means an individual, agency, or corporation appointed by the court to assist in managing the financial resources of a partially disabled person and whose powers and duties have been specifically enumerated by court order.

(3) "Guardian" means any individual, agency, or corporation appointed by the court to have full care, custody, and control of a disabled person and to manage his financial resources.

(4) "Limited guardian" means a guardian who possesses fewer than all of the legal powers and duties of a full guardian, and whose powers and duties have been specifically enumerated by court order.

(5) "Standby" guardian or conservator means a person or entity designated by the court to assume the powers and duties assigned to a limited guardian, guardian, limited conservator, or conservator upon his death, resignation, removal, or incapacity.

(6) "Testamentary" guardian or conservator means an individual, agency, or corporation nominated in the will of a limited guardian, guardian, limited conservator, or conservator to succeed the testator in that capacity upon his death.

(7) "Developmental disability" means a severe, chronic disability of a person which:

(a) Is attributable to a mental or physical impairment or combination of mental and physical impairments***, including pervasive developmental disorder***;

(b) Is manifested before the person attains age twenty-two (22);

(c) Is likely to continue indefinitely;

(d) Results in substantial functional limitations in three (3) or more of the following areas of major life activity: 1. self-care; 2. receptive and expressive language; 3. learning; 4. mobility; 5. self-direction; 6. capacity for independent living; and 7. economic self-sufficiency; and

(e) Reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated.

(8) "Disabled" means a legal, not a medical disability, and is measured by functional inabilities. It refers to any person fourteen (14) years of age or older who is:

(a) Unable to make informed decisions with respect to his personal affairs to such an extent that he lacks the capacity to provide for his physical health and safety, including but not limited to health care, food, shelter, clothing, or personal hygiene; or

(b) Unable to make informed decisions with respect to his financial resources to such an extent that he lacks the capacity to manage his property effectively by those actions necessary to obtain, administer, and dispose of both real and personal property.

Such inability shall be evidenced by acts or occurrences within six (6) months prior to the filing of the petition for guardianship or conservatorship and shall not be evidenced solely by isolated instances of negligence, improvidence, or other behavior.

(9) "Partially disabled" refers to an individual who lacks the capacity to manage some of his personal affairs and/or financial resources as provided in subsection (8) of this section, but who cannot be found to be fully disabled as provided therein.

(10) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of his affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors.

(11) "Interdisciplinary evaluation report" means a report of an evaluation of a respondent performed pursuant to the provisions of KRS 387.540 to determine whether he is partially disabled or disabled as defined herein.

(12) "Interested person or entity" means an adult relative or friend of the respondent or ward, an official or representative of a public or private agency, corporation, or association concerned with that person's welfare, or any other person found suitable by the court.

(13) "Petitioner" means a person who institutes a proceeding under KRS 387.530.

(14) "Respondent" means an individual alleged to be a partially disabled or disabled person.

(15) "Ward" means a person for whom a limited guardian, guardian, limited conservator, or conservator has been appointed.

(16) "Committee" means a person appointed by the court prior to July 1, 1982, to have full care, custody, and control of a disabled person and his estate.

The Committee on Appropriations and Revenue reported **HB 715,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 715, AN ACT relating to taxation.

WHEREAS, foreign trade zones are secure areas under the supervision of the United States Customs Service that are considered outside the Customs territory of the United States upon activation of all or any portion of a zone or zone site under United States Customs Service regulations, 19 C.F.R. Part 146; and

WHEREAS, the nature, use, and utility of property located in an activated area of a foreign trade zone or zone site is different from other commercial property that is not involved in international trade and does not have to comply with the regulations of the Foreign Trade Zones Board and the United States Customs Service; and

WHEREAS, it is necessary to clarify the General Assembly's original intention that the state tax rate and local exemption from tangible personal property tax is limited to tangible personal property that is located within the boundaries of an activated area within a foreign trade zone or zone site;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of thirty-one and one-half cents ($0.315) upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 directed to be assessed for taxation, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing, and one and one-half cents ($0.015) upon each one hundred

dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of all money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone ***established pursuant to***[~~as designated under~~] 19 U.S.C. sec. 81, ***provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board,*** fifteen cents ($0.15) upon machinery actually engaged in manufacturing, fifteen cents ($0.15) upon commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents ($0.15) upon property which has been certified as a pollution control facility as defined in KRS 224.01-300, one-tenth of one cent ($0.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five cents ($0.45) upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed, except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.300, 136.320, and other sections providing a different tax rate for particular property.

(2) (a) An annual ad valorem tax for state purposes of one and one-half cents ($0.015) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when the intangible personal properties have not acquired a taxable situs without this state:

1. Accounts receivable, notes, bonds, credits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;
2. Patents, trademarks, copyrights, and licensing or royalty agreements relating to these;
3. Notes, bonds, accounts receivable, and all other intercompany intangible personal property due from any affiliated company; and
4. Tobacco base allotments.

(b) An annual ad valorem tax for state purposes of one-thousandth of one percent (0.001%) shall be paid upon money in hand, notes, bonds, accounts, credits, and other intangible assets, whether by mortgage, pledge, or otherwise, or unsecured, of financial institutions, as defined in KRS 136.500.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school, or other taxing district on the intangible properties, or directly or indirectly against the owner.

(5) Thirty cents ($0.30) of the thirty-one and one-half cents ($0.315) state tax rate on real property and thirty cents ($0.30) of the forty-five cents ($0.45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents ($0.30), as certified by the Department of Education, the direct payments shall be reduced proportionately.

(6) The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%). In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(7) By July 1 each year, the cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (5) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the cabinet shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the cabinet, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the cabinet, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(8) If the tax rate set by the cabinet as provided in subsection (6) of this section produces more than a four percent (4%) increase in real property tax revenues, the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

(9) The provisions of subsection (6) of this section notwithstanding, the assessed value of unmined coal certified by the

cabinet after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (6) of this section. The calculated rate shall, however, be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 to 146.570, except that four hundred thousand dollars ($400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Kentucky Coal Council for the purpose of public education of coal-related issues.

(10) Effective on or after January 1, 1990, an ad valorem tax for state purposes of five cents ($0.05) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business, which, on or after January 1, 1999, includes machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement; and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business.

(11) An ad valorem tax for state purposes of ten cents ($0.10) per one hundred dollars ($100) of assessed value shall be paid on the operating property of railroads or railway companies that operate solely within the Commonwealth.

(12) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on aircraft not used in the business of transporting persons or property for compensation or hire.

(13) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes.

Section 2. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the classes of property described in KRS 132.030 and 132.050, and the following classes of property, which shall be subject to taxation for state purposes only:

(1) Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operation;

(2) Livestock, ratite birds, and domestic fowl;

(3) Capital stock of savings and loan associations;

(4) Machinery actually engaged in manufacturing, products in the course of manufacture, and raw material actually on hand at the plant for the purpose of manufacture. The printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be manufacturing;

(5) Commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

(6) Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents ($0.015) on each one hundred dollars ($100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents ($0.045) on each one hundred dollars ($100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

(7) Money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured. Nothing in this section shall forbid local taxation of franchises of corporations or of financial institutions, as provided for in KRS 136.575, or domestic life insurance companies;

(8) All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;

(9) Property which has been certified as a pollution control facility as defined in KRS 224.01-300;

(10) Property which has been certified as an alcohol production facility as defined in KRS 247.910;

(11) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;

(12) Tangible personal property located in a foreign trade zone ***established pursuant to***~~[as designated under]~~ 19 U.S.C. sec. 81***,*** ***provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board***;

(13) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460;

(14) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(15) All motor vehicles held for sale in the inventory of a licensed motor vehicle dealer, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230, and all motor vehicles with a salvage title held by an insurance company;

(16) Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in KRS 139.095;

(17) New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800;

(18) New boats and new marine equipment held for retail sale under a floor plan financing arrangement by a dealer registered under KRS 235.220;

(19) Aircraft not used in the business of transporting persons or property for compensation or hire if an exemption is approved by the county, city, school, or other taxing district in which the aircraft has its taxable situs;

(20) Federally documented vessels not used in the business of transporting persons or property for compensation or hire or for other commercial purposes, if an exemption is approved by the county, city, school, or other taxing district in which the federally documented vessel has its taxable situs; and

(21) Any nonferrous metal that conforms to the quality, shape, and weight specifications set by the New York Mercantile Exchange's special contract rules for metals, and which is located or stored in a commodity warehouse and held on warrant, or for which a written request has been made to a commodity warehouse to place it on warrant, according to the rules and regulations of a trading facility. In this subsection:

  (a) "Commodity warehouse" means a warehouse, shipping plant, depository, or other facility that has been designated or approved by a trading facility as a regular delivery point for a commodity on contracts of sale for future delivery; and

  (b) "Trading facility" means a facility that is designated by or registered with the federal Commodity Futures Trading Commission under 7 U.S.C. secs. 1 et seq. "Trading facility" includes the Board of Trade of the City of Chicago, the Chicago Mercantile Exchange, and the New York Mercantile Exchange.

The Committee on State Government reported **HB 590,** with Committee Substitute attached thereto, with the expression that the same should pass. Reported to the Committee on Rules.

The Committee Substitute to **HB 590** is as follows:

HB 590, AN ACT relating to the Kentucky Judicial Form Retirement System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 21 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Judicial Retirement Plan excess benefit plan established in Section 2 of this Act shall be administered by the board of trustees of the Kentucky Judicial Form Retirement System. The board shall have the same authority in its administration as it has in the administration of the Kentucky Judicial Retirement Plan.

(2) The plan shall constitute a qualified governmental excess benefit plan as provided in 26 U.S.C. sec. 415(m).

(3) All retired members and beneficiaries of the Kentucky Judicial Retirement Plan whose effective retirement dates are July 1, 1998, or after, and whose retirement allowances have been limited by 26 U.S.C. sec. 415 shall be participants in the plan. Each member's participation in the plan shall be determined each fiscal year and shall cease for any year in which the retirement allowance is not limited by 26 U.S.C. sec. 415.

(4) A participant shall receive a benefit equal to the difference between the retirement allowance otherwise payable from the plan prior to any reduction or limitation required by 26 U.S.C. sec. 415 and the actual retirement allowance payable as limited by 26 U.S.C. sec. 415. The benefit shall be subject to withholding for applicable state and federal taxes. The benefit shall be paid in accordance with the retirement payment option selected by the member for the retirement allowance.

(5) (a) The board, in accordance with the recommendation of the actuary, shall determine the required contribution to pay benefits each fiscal year. The required contribution for each fiscal year shall be the total amount of benefits payable under this section to all participants plus the amount required to pay any employment taxes on the benefits paid from the plan.

  (b) The required contribution shall be paid from state appropriations.

  (c) The required contribution shall be deposited into the separate fund. The plan is intended to be exempt from federal income tax under 26 U.S.C. sec. 115 and 26 U.S.C. sec. 415 (m)(1).

  (d) The benefit liability shall be determined on a fiscal year basis, and contributions shall not be accumulated to

pay benefits in future fiscal years. Any assets not used to pay benefits in the current fiscal year shall be paid to the Retirement Plan.

(6) The benefits payable from the plan shall be treated in accordance with KRS 21.470.

SECTION 2. A NEW SECTION OF KRS CHAPTER 21 IS CREATED TO READ AS FOLLOWS:

(1) There is created and established:

(a) An excess benefit plan to be known as the Kentucky Judicial Retirement Plan excess benefit plan. The plan is created for the purpose of providing retirement allowances payable from the retirement plan under KRS 21.345 to 21.580 that would otherwise be limited by 26 U.S.C. sec. 415; and

(b) A state fund to be known as the Kentucky Judicial Retirement Plan excess benefit fund which shall consist of all the assets of the plan.

(2) The administration and assets of the plan created under this section shall be as set forth in Section 1 of this Act.

Section 3. KRS 21.370 is amended to read as follows:

(1) Except as provided in subsection (2) of KRS 21.410 and in subsection (2) of KRS 21.420, no benefits shall be payable under KRS 21.350 to 21.480 to any member or to his surviving spouse, unless he has completed at least eight (8) years of service, including service before becoming a member. No surviving spouse of a retired member shall be entitled to any benefits unless the person was the spouse of the member at the time he retired.

(2) A member who has qualified for benefits under this section may transfer to the Judicial Retirement Plan up to ten (10) years of service credit which he has earned in a retirement system administered by Kentucky Retirement Systems, and he may transfer to the Judicial Retirement Plan up to ten (10) years of service credit which he has earned in the Kentucky Legislators' Retirement Plan. If the member elects to transfer his service credit, the system or plan from which the transfer is made shall transfer to the judicial retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially assumed interest rate of the system or plan from which the transfer is made in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies under KRS 21.400, when he pays the total difference between the amount of the funds transferred and the cost of the credit to the Judicial Retirement Plan, as determined by the actuary for the Judicial Retirement Plan. The member may pay by transfer, if authorized under subsection (5)(d) of this section, or by lump sum or increments as set forth in subsection (4)(b) of this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).

(3) Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan under subsection (1) of this section or KRS 21.375, shall receive service credit for a maximum of four (4) years for his period of service as a city police judge for a city within the Commonwealth of Kentucky, if the service was performed prior to the first Monday in January, 1978, and if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records of the city for which the service was performed. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).

(4) (a) 1. Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan under subsection (1) of this section or KRS 21.375, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system thirty-five percent (35%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan.

2. Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan may purchase and receive service credit for one (1) month of service for each six (6) months of service in the reserves or the National Guard by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question as provided in KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The service in the military reserves or the National Guard shall be treated as service earned prior to participation in the plan. The purchase can be made by the member in a transfer, if

authorized under subsection (5)(d) of this section, or by a lump-sum payment or installment payments. The payment shall not be picked up by the employer as provided in KRS 21.360(6).

(b) ~~[The beneficiary may purchase military service credit only at one (1) time by lump-sum payment for the amount of service he wishes to purchase, and the payment shall be made within thirty (30) days of the death of the active member.~~]The member may purchase all of his military service credit at one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump-sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump-sum payment of the remaining principal amount, but no further installment payments shall be accepted thereafter. In this case, the member shall be credited with the military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.

(c) The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).

[~~(d) No veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for a military pension in the future, unless the military pension is for service primarily on inactive duty in a reserve component of the Armed Forces, or is a disability pension which does not exceed five hundred dollars ($500) monthly.~~]

(5) (a) ~~[Any provision of law to the contrary notwithstanding, paragraphs (a), (b), (c), and (d) of this subsection shall apply only to applicable officials who are in office on June 21, 2001, and who are in active contributing status to the applicable retirement plan on June 21, 2001.~~

~~(a)~~]Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan under subsection (1) of this section or KRS 21.375, shall receive service credit for a maximum of four (4) years each for his period of service as a Domestic Relations Commissioner, a Master Commissioner, or a District Court Trial Commissioner of the Commonwealth of Kentucky, or a combination thereof, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The member may pay by transfer as set forth in paragraph (d) of this subsection, or by lump sum or increments as set forth in subsection (4)(b) of this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).

(b) Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan under subsection (1) of this section or KRS 21.375, shall receive service credit for his period of service to the United States Government, other than service in the Armed Forces, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The member may pay by transfer as set forth in paragraph (d) of this subsection, or by lump sum or increments as set forth in subsection (4)(b) of this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).

(c) Any member of the Judicial Retirement Plan, who has at least two hundred forty (240) months of service credit may purchase a combined maximum total of five (5) years retirement service credit that is not otherwise purchasable, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The member may pay by transfer as set forth in paragraph (d) of this subsection, or by lump sum or increments as set forth in subsection (4)(b) of this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).

(d) A member of the Judicial Retirement Plan may purchase service credit under the provisions of this section by transferring funds ***through a direct trustee-to-trustee transfer permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder, or through a direct rollover as contemplated by and permitted*** under[~~ the rules in~~] 26 U.S.C. sec. 401(a)(31)[~~ directly from a retirement plan or a deferred compensation arrangement maintained by his employer that is a qualified plan under 26 U.S.C. sec. 401(a)~~]. Service credit may also be purchased by a rollover of funds ***pursuant to and permitted***[~~ from a qualified retirement plan~~] under the rules specified in 26 U.S.C. sec. 402(c) ***and 26 U.S.C. sec. 408(d)(3)***. The Judicial Retirement Fund shall accept the transfer or rollover to the extent permitted under the rules specified in ***the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder***[~~26 U.S.C. secs. 402(c) and 401(a)(31)~~]. The amount shall be credited to the individual member's contribution account and shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).

Section 4. KRS 6.515 is amended to read as follows:

(1) Service credit in the Legislators' Retirement Plan shall be acquired only by service as a legislator after July 1, 1980, while a member of the plan, by transfer of credit as provided in KRS 6.505, or by purchase or transfer of credit as provided in this section.

(2) (a) 1. Any active member of the Legislators' Retirement Plan who has at least five (5) years of service credit in the Legislators' Retirement Plan, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system thirty-five percent (35%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the legislator in question under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators' Retirement Plan, to other service credit earned in the plan.

2. Any active member of the Legislators' Retirement Plan who has at least five (5) years of service credit in the Legislators' Retirement Plan may purchase and receive service credit for one (1) month of service for each six (6) months of service in the reserves or the National Guard by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on the assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the legislator in question under KRS 6.520. Service credit awarded as provided in this subsection shall be equivalent, for all purposes of the Legislators' Retirement Plan, to other service credit earned in the plan. The service in the military reserves or the National Guard shall be treated as service earned prior to participation in the plan. The purchase can be made by the member by transfer, if authorized under subsection (7)(d) of this section, or in a lump-sum payment or by installment payments, as set forth in paragraph (b) of this subsection. The payment shall not be picked up by the employer as provided in KRS 6.505(2).

(b) [~~The beneficiary may purchase military service credit only at one (1) time by lump-sum payment for the amount of service he wishes to purchase, and the payment shall be made within thirty (30) days of the death of the active member.~~]The member may purchase all of his military service credit at one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump-sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump-sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump-sum payment of the remaining principal amount, but no further installment payments shall be accepted thereafter. In this case, the member shall be credited with the military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.

(c) The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(2).

[~~(d) No veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for a military pension in the future, unless the military pension is for service primarily on inactive duty in a reserve component of the Armed Forces, or is a disability pension which does not exceed five hundred dollars ($500) monthly.~~]

(3) If spouses both serve in the General Assembly, but not simultaneously, they may combine their service credit in the Legislators' Retirement Plan for all purposes of that plan into a single account, and may jointly designate to whom the

service retirement allowance shall be paid. The designation shall not be changed once it is made. Assuming equal service credit, the benefits paid, under this section, to a legislator and his or her spouse who also served as a legislator shall not exceed the benefits that the same legislator and his or her spouse would receive if the spouse had not served as a legislator.

(4) In the event of divorce, rights to benefits shall be considered marital property subject to the provisions of KRS 403.190.

(5) A former legislator whose spouse currently serves in the General Assembly and who received a refund of contributions under KRS 21.460 may repurchase service credit which he or she previously had by repaying the amount refunded with interest at six percent (6%) per annum, and the service credit shall become part of the single account authorized by subsection (3) of this section.

(6) A member who has qualified for benefits under KRS 6.525(1) may transfer to the Legislators' Retirement Plan up to ten (10) years of service credit which he has earned in a retirement system administered by Kentucky Retirement Systems. If the member elects to transfer his service credit, the system from which the transfer is made shall transfer to the legislators' retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to date of transfer at the actuarially assumed interest rate of the system from which the transfer is made in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies under KRS 6.520, when he pays the total difference between the amount of the funds transferred and the cost of the credit to the Legislators' Retirement Plan, as determined by the actuary for the Legislators' Retirement Plan. The member may pay by transfer, if authorized under subsection (7)(d) of this section, by lump sum, or by increments, as provided for in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(2).

(7) (a) ~~[Any provision of law to the contrary notwithstanding, paragraphs (a), (b), (c), and (d) of this subsection shall apply only to applicable officials who are in office on June 21, 2001, and who are in active contributing status to the applicable retirement plan on June 21, 2001.~~

~~(a)~~]Any active member of the Legislators Retirement Plan who is vested in the Legislators Retirement Plan under KRS 6.525, shall receive service credit for a maximum of four (4) years each for his period of service as a Domestic Relations Commissioner, a Master Commissioner, or a District Court Trial Commissioner of the Commonwealth of Kentucky, or a combination thereof, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators Retirement Plan, to other service credit earned in the plan. The member may pay by transfer, by lump sum, or by increments as set forth in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(2).

(b) Any active member of the Legislators Retirement Plan who is vested in the Legislators Retirement Plan under KRS 6.525, shall receive service credit for his period of service to the United States Government, other than service in the Armed Forces, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators Retirement Plan, to other service credit earned in the plan. The member may pay by transfer, by lump sum, or by increments as set forth in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(2).

(c) Any member of the Legislators Retirement Plan, who has at least two hundred forty (240) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit that is not otherwise purchasable, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The member shall be entitled to the service credit at the rate at which he qualifies under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators Retirement Plan, to other service credit earned in the plan. The member may pay by transfer, by lump sum, or by increments as set forth in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(2).

(d) A member of the Legislators Retirement Plan may purchase service credit under the provisions of this section by transferring funds ***through a direct trustee-to-trustee transfer as permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder or through a direct rollover as contemplated by and permitted*** under~~[the rules in]~~ 26 U.S.C. sec. 401(a)(31) ***and any regulations or rulings***

issued thereunder[~~directly from a retirement plan or a deferred compensation arrangement maintained by his employer that is a qualified plan under 26 U.S.C. sec. 401(a)~~]. Service credit may also be purchased by a rollover of funds ***pursuant to and permitted***[~~from a qualified retirement plan~~] under the rules specified in 26 U.S.C. sec. 402(c) ***and 26 U.S.C. sec. 408(d)(3)***. The Legislators Retirement Fund shall accept the transfer or rollover to the extent permitted under the rules specified in ***the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder***[~~26 U.S.C. secs. 402(c) and 401(a)(31)~~]. The amount shall be credited to the individual member's contribution account and shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(2).

Section 5. KRS 6.525 is amended to read as follows:

The Legislators' Retirement Plan shall be governed by KRS 21.560 and by provisions identical in terms with those provided in KRS 21.345(1) and (3), 21.360(1), 21.370 ***to***[~~, 21.375, 21.380, 21.385,~~] 21.410, 21.420, 21.425, 21.450, 21.460, 21.470, 21.480, 21.525, and 61.552 for the Judicial Retirement Plan, except that:

(1) Five (5) years of service as a legislator will be sufficient for vesting; and

(2) A member of the Legislators' Retirement Plan may combine his service credit with his service credit in the Teachers' Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System at the time of his retirement, according to the procedure of KRS 61.680(2)(a). A member of the Legislators' Retirement Plan may retire at the completion of thirty (30) or more years of combined service credit, so long as at least fifteen (15) years of such credit were earned after January 1, 1960, and there shall be no reduction in the retirement allowance because of retirement before the age of sixty-five (65). For the purposes of this section, any reference in the KRS sections listed above to the Judicial Retirement Plan shall also be read as a reference to the Legislators' Retirement Plan, and any reference to the Legislators' Retirement Plan shall also be read as a reference to the Judicial Retirement Plan.

(3) Any other statute to the contrary notwithstanding, a member of any state-administered retirement system who has ceased to qualify for membership but subsequently returns to a qualified status, shall, for the purposes of determining the date of entry into the state-administered retirement system for the subsequent period or periods of service, be deemed to have never left the retirement system.

The Committee on State government reported **HB 232,** with Committee Substitute attached thereto, **HB 714, HB 727, SB 14,** and **SB 149** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 232, AN ACT relating to the lottery.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

Except for lottery vending machines located in factories or lottery vending machines located in bars or taverns to which persons under the age of eighteen (18) years are not permitted access, a lottery retailer shall locate any vending machine from which lottery tickets are dispensed in the unobstructed line of sight of the cashier for the lottery retailer.

Section 2. KRS 154A.990 is amended to read as follows:

(1) ***(a)*** Any person who knowingly sells a lottery ticket to a person under eighteen (18) years of age shall be guilty of a violation for the first offense and for each subsequent offense shall be guilty of a Class B misdemeanor.

(b) Any lottery retailer or other person who violates Section 1 of this Act shall be subject to a civil fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation. The fine shall be collected by the corporation using an administrative enforcement procedure and shall be in addition to any other sanctions the corporation may choose to impose.

(2) Any person who, with intent to defraud, falsely makes, alters, forges, utters, passes, or counterfeits a state lottery ticket shall be guilty of a Class C felony.

(3) Any person who influences or attempts to influence the winning of a prize through the use of coercion, fraud, deception, or tampering with lottery equipment or materials shall be guilty of a Class B felony.

(4) Any person who violates the provisions of KRS 154A.030(2) shall be guilty of a Class D felony and shall be removed from the board.

(5) Any person who violates the provisions of KRS 154A.080(2) shall be fined not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000) and shall be guilty of a Class D felony.

(6) Any person who violates the provisions of KRS 154A.080(3) shall be guilty of a Class D felony.

(7) Any person who violates the provisions of KRS 154A.080(4) shall be guilty of a Class A misdemeanor.

(8) Any person, including any retailer and any officers, directors, or employees of a corporate retailer, any general partner or employee of a retailer which is a partnership or joint venture, or any owner or employee of a retailer which is a sole proprietorship, who willfully violates the provisions of KRS 154A.420(1) shall be fined not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) and shall be guilty of a Class D felony.

(9) Any person who violates the provisions of KRS 154A.440(1) for the first offense shall be guilty of a violation and for each subsequent offense shall be guilty of a Class B misdemeanor.

(10) Any person violating KRS 154A.160(3) is guilty of a Class D felony.

(11) Any person who knowingly provides false or intentionally misleading information to the corporation in connection with a background investigation prior to employment pursuant to KRS 154A.080(5), an application for a lottery retailer certificate under KRS 154A.400, the corporation's investigation of prospective vendors pursuant to KRS 154A.600, or any investigation by the corporation's Division of Security shall be fined not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), and shall be guilty of a Class D felony.

(12) Unless the corporation shall have promulgated administrative regulations governing its procurements under KRS 154A.120(1), the provisions of KRS 45A.990(1) to 45A.990(8) shall be deemed to apply to procurement activities conducted under this chapter which are governed by KRS Chapter 45A. If the corporation has promulgated administrative regulations governing its procurements, any person who willfully violates the administrative regulations shall be guilty of a Class A misdemeanor.

The Committee Substitute to **HB 232** is as follows:

HB 232, AN ACT relating to the lottery.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

Except for lottery vending machines located in factories or lottery vending machines located in package liquor stores, bars or taverns to which persons under the age of eighteen (18) years are not permitted access, a lottery retailer shall locate any vending machine from which lottery tickets are dispensed in the sight of the employees of the lottery retailer.

Section 2. KRS 154A.990 is amended to read as follows:

(1) ***(a)*** Any person who knowingly sells a lottery ticket to a person under eighteen (18) years of age shall be guilty of a violation for the first offense and for each subsequent offense shall be guilty of a Class B misdemeanor.

(b) Any lottery retailer who violates Section 1 of this Act shall be notified by the corporation in writing that the retailer shall have thirty (30) days in which to correct the violation. If at the end of that thirty (30) day period the violation is not corrected, the corporation shall remove all lottery vending machines from the retailer's premises.

(2) Any person who, with intent to defraud, falsely makes, alters, forges, utters, passes, or counterfeits a state lottery ticket shall be guilty of a Class C felony.

(3) Any person who influences or attempts to influence the winning of a prize through the use of coercion, fraud, deception, or tampering with lottery equipment or materials shall be guilty of a Class B felony.

(4) Any person who violates the provisions of KRS 154A.030(2) shall be guilty of a Class D felony and shall be removed from the board.

(5) Any person who violates the provisions of KRS 154A.080(2) shall be fined not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000) and shall be guilty of a Class D felony.

(6) Any person who violates the provisions of KRS 154A.080(3) shall be guilty of a Class D felony.

(7) Any person who violates the provisions of KRS 154A.080(4) shall be guilty of a Class A misdemeanor.

(8) Any person, including any retailer and any officers, directors, or employees of a corporate retailer, any general partner or employee of a retailer which is a partnership or joint venture, or any owner or employee of a retailer which is a sole proprietorship, who willfully violates the provisions of KRS 154A.420(1) shall be fined not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) and shall be guilty of a Class D felony.

(9) Any person who violates the provisions of KRS 154A.440(1) for the first offense shall be guilty of a violation and for each subsequent offense shall be guilty of a Class B misdemeanor.

(10) Any person violating KRS 154A.160(3) is guilty of a Class D felony.

(11) Any person who knowingly provides false or intentionally misleading information to the corporation in connection with a background investigation prior to employment pursuant to KRS 154A.080(5), an application for a lottery retailer certificate under KRS 154A.400, the corporation's investigation of prospective vendors pursuant to KRS 154A.600, or any investigation by the corporation's Division of Security shall be fined not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), and shall be guilty of a Class D felony.

(12) Unless the corporation shall have promulgated administrative regulations governing its procurements under KRS 154A.120(1), the provisions of KRS 45A.990(1) to 45A.990(8) shall be deemed to apply to procurement activities conducted under this chapter which are governed by KRS Chapter 45A. If the corporation has promulgated administrative regulations governing its procurements, any person who willfully violates the administrative regulations shall be guilty of a Class A misdemeanor.

HB 714, AN ACT relating to the Kentucky River Authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.720 is amended to read as follows:

The Kentucky River Authority is authorized and empowered to:

(1) Construct, reconstruct, provide for the major maintenance, or repair the locks and dams on the Kentucky River and all real and personal property pertaining thereto, as well as maintain the channel;

(2) Acquire by purchase, exercise of the rights of eminent domain, grant, gift, devise, or otherwise, the fee simple title to or any acceptable lesser interest in any real or personal property and by lease or other conveyance, contract for the right to use and occupy any real or personal property selected in the discretion of the authority as constituting necessary, desirable, or acceptable sites to fulfill its statutory authority and power;

(3) Lease its real or personal property to other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons as the authority deems necessary to carry out the purposes of this section;

(4) Sell or otherwise dispose of its real or personal property in accordance with KRS 56.463 and 45A.045;

(5) Collect water use fees from all facilities using water from the Kentucky River basin, except those facilities using water primarily for agricultural purposes ***and any municipally owned facility which withdraws water from a privately owned lake or reservoir which is not dependent on the Kentucky River main stem for recharge***. Facilities charged such a fee may pass on all or any part of the fee;

(6) Issue revenue bonds in accordance with KRS 151.730;

(7) Employ persons to carry out the authority's responsibilities with revenue from the water use fees, including an executive director who shall serve at the pleasure of the authority;

(8) Contract for services with other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons to perform its duties;

(9) Promulgate administrative regulations providing for clean water, which shall not be less stringent than the state and federal regulations for clean water;

(10) Exercise all other powers necessary to perform its public purpose to implement and enforce the plans developed by the authority pursuant to this section and KRS 151.727 and 151.728, and to enforce administrative regulations promulgated by the authority. The long-range water resource plan and drought response plan shall be implemented for the basin upon the direction of the authority;

(11) Develop comprehensive plans for the management of the Kentucky River within the basin, including a long-range water resource plan and a drought response plan. Each county within the basin shall develop a long-range water resource plan and submit it to the authority. The authority, after consultation with the Natural Resources and Environmental Protection Cabinet, shall develop a unified long-range water resource plan for the basin. The unified long-range water resource plan shall be implemented over short-range and long-range time periods. The short-range plan shall be for a period of six (6) years and the long-range plan shall be for a period of twenty (20) years. The authority shall conduct a public hearing on the plan prior to its adoption and amend the plan as appropriate based on the comments received. The Natural Resources and Environmental Protection Cabinet shall review the draft unified plan and provide comment during the public comment period concerning the consistency of the plan with the state requirements under KRS Chapters 224 and 151. A drought response plan for the basin shall be developed by the authority and shall be coordinated with the Natural Resources and Environmental Protection Cabinet to assure consistency with KRS Chapters 224 and 151, and this plan shall be implemented for the basin upon the direction of the authority;

(12) Develop and promote a plan for the protection and use of groundwater within the basin. Administrative regulations may be promulgated implementing the plan, and these regulations shall not be less stringent than state and federal regulations protecting groundwater;

(13) Develop recreational areas within the basin. These recreational areas may be operated and funded by the state Department of Parks, Kentucky State Nature Preserves Commission, or other governmental entity as specifically authorized or permitted within the biennial executive budget. There is hereby created the Kentucky River Park to be located as determined by the authority;

(14) Utilize funds provided for recreational purposes within the biennial executive budget for major or minor maintenance if the authority certifies to the secretary of the Finance and Administration Cabinet that a significant need exists for the repairs and no other funds are available for the maintenance;

(15) Coordinate the Kentucky River basin water resources activities among state agencies;

(16) Report quarterly on all of its activities to the legislative Committee on Appropriations and Revenue;

(17) Receive reports from state agencies on litigation concerning the Kentucky River, which agencies are hereby directed to report to the authority;

(18) Credit to the authority any income derived from the interest earned on the investment of the water use fees collected,

which shall be available for the authority's expenditure; and

(19) Accomplish the watershed management mission of the authority, which is to fulfill the provisions of this section for the Kentucky River basin, the boundary of which shall be defined by a hydrologic map promulgated in an administrative regulation.

Section 2. To grant sufficient time to the authority to prepare a budget based on the directive provided by this Act, this Act takes effect November 15, 2003.

HB 727, AN ACT relating to legislative ethics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.757 is amended to read as follows:

(1) A former legislator shall not be a legislative agent, other than for a public agency, until after ***one (1) year has***[~~two (2) years have~~] elapsed since the date the legislator left office.

(2) A legislator shall not be a legislative agent.

(3) Violation of this section is ethical misconduct.

SB 14, AN ACT relating to state employee leave time.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Disaster" means disasters designated at level III and above in the American National Red Cross Regulations and Procedures; and

(b) "State agency" means all departments, offices, commissions, boards, institutions, and political and corporate bodies of the state, including the offices of the clerk of the Supreme Court, clerks of the appellate courts, the several courts of the state, and the legislature, its committees or commissions.

(2) An employee of a state agency who is a certified disaster services volunteer of the American Red Cross may be granted leave from work with pay for not to exceed thirty (30) work days in any twelve (12) month period to participate in specialized disaster relief services for the American Red Cross for the services of that employee and upon the approval of that employee's agency, without loss of seniority, pay, vacation time, sick time, compensatory time, or earned overtime accumulation. The agency shall compensate an employee granted leave under this section at the regular rate of pay for those regular work hours during which the employee is absent from work.

(3) This section may be cited as the Disaster Services Volunteer Leave Act.

Section 2. KRS 61.394 is amended to read as follows:

All officers and employees of this state, or of any department or agency thereof who are members of the national guard or of any reserve component of the Armed Forces of the United States, or of the reserve corps of the United States Public Health Service, shall be entitled to leave of absence from their respective duties, without loss of time, pay, regular leave, impairment of efficiency rating, or of any other rights or benefits to which they are entitled, while in the performance of duty or training in the service of this state or of the United States under competent orders, for a period in any ***one (1) federal fiscal***[~~calendar~~] year not to exceed that specified in this section. Officers or employees while on leave shall be paid their salaries or compensations for a period or periods not exceeding fifteen (15) calendar days or ten (10) working days if the employee's position is based upon a five (5) day work week; twelve (12) days if the employee's position is based upon a six (6) day work week; fifteen (15) days if the employee's position is based upon a seven (7) day work week[~~, in any one (1) federal fiscal year~~].

SB 149, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 196.026 is amended to read as follows:

The Department of Corrections shall consist of the following organizational units:

(1) Office of General Counsel;

(2) Division of Administrative Services;

(3) Division of Corrections Training;

(4) Division of Institutional Operations;

(5) Division of Mental Health Programs;

(6) Division of Correctional Industries;

(7) Division of Medical Services;
(8) Division of Probation and Parole;
(9) Division of Local Facilities;
(10) Division of Personnel Services; and
(11)[~~(10)~~] Western Region Division and Eastern Region Division, Adult Institutions.

Each state penal correctional institution referenced in KRS 197.010 shall be considered a division for organizational purposes. Each institution shall be headed by a warden pursuant to KRS 196.160.

Section 2. The General Assembly confirms Executive Order 2001-1293, dated October 17, 2001, which established the Division of Personnel Services within the Department of Corrections, to the extent that it is not otherwise confirmed by the Act.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Majority Caucus meeting in the Supreme Court Chamber. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions, and Communications

Representative Yonts moved to suspend the rules to act on on a Legislative Citation. Agreed.

Representative Yonts moved the adoption of the following **Legislative Citation No. 64**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and welcomes the School to Careers Ambassadors which inludes those students from the Hopkins County School System, for demonstrating exemplary interest in the democratic process by visiting the House Chambers during the Regular Session of the 2002 Kentucky General Assembly. The members of this honorable body are pleased to join Representative Brent Yonts in commending these outstanding young citizens for their participation in the Schools to Careers Program and in extending best wishes for continued success and good fortune. Done in Frankfort, Kentucky, this twenty-sixth day of February, in the year two thousand and two.

Legislative Citation No. 64 was adopted without objection.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications (Continued)

Representative Stumbo moved to suspend the rules to allow for a Rules Committee Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 129, HB 289, HB 415, HB 648, HB 627, HB 188,** and **HB 533** have been posted for passage in the Orders of the Day for February 27, 2002.

Orders of the Day

HB 369, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HB 369**. Agreed.

Representative Cherry moved the adoption of Floor Amendment No. 21 to the Committee Substitute to **HB 369**. Agreed.

Representative Marzian moved the adoption of Floor Amendment No. 22 to the Committee Substitute to **HB 369**. Agreed.

Speaker Pro Tem L. Clark assumed the Chair.

Speaker Richards resumed the Chair.

On the roll call on the motion to adopt Floor Amendment No. 22 the vote was: **Yeas 52, Nays 44**. (See February 26, 2002, roll call on **HB 369** - Appendix.)

Floor Amendment No. 22 to the Committee Substitute to **HB 369**, was adopted.

Representative Marzian moved that **HB 369**, by way of Committee Substitute, as amended, be passed.

Representative Yonts moved the adoption of Floor Amendment No. 10 to the Committee Substitute to **HB 369** .

Floor Amendment No. 10 to the Committee Substitute to **HB 369**, was rejected by voice vote.

Representative Coleman moved the adoption of Floor Amendment No. 25 to the Committee Substitute to **HB 369**.

Floor Amendment No. 25 to the Committee Substitute to **HB 369**, was rejected by voice vote.

Representative Crall moved the adoption of Floor Amendment No. 23 to the Committee Substitute to **HB 369**.

Representative Marzian inquired whether Floor Amendment No. 23 was germane.

The Speaker ruled that Floor Amendment No. 23 was germane.

Representative Crall moved the adoption of Floor Amendment No. 23 to the Committee Substitute to **HB 369**.

On the roll call the vote was: **Yeas 39, Nays 57**. (See February 26, 2002, roll call on **HB 369** - Appendix.)

Floor Amendment No. 23 to the Committee Substitute to the Committee Substitute to **HB 369,** was rejected.

On the roll call on the motion that **HB 369**, by way of Committee Substitute, as amended by passed the vote was: **Yeas 94, Nays 4**. (See February 26, 2002, roll call on **HB 369** - Appendix.)

HB 369, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 369**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved to waive the posting requirement on the following: **HB 75** and **SB 116**. Agreed.

Representative Stumbo moved that the rules be suspended for Introductions of Bills and Report of Committees. Agreed.

Introductions of Bills and Resolutions (Continued)

HB 766, by Representative Jenkins: AN ACT relating to health consumer protection.

HB 767, by Representative Burch: AN ACT relating to criminal defendants found incompetent to stand trial.

HB 768, by Representatives Callahan, L. Clark, Barrows, Draud, Marzian Jenkins, Burch, Feeley, Horlander, Brinkman, Haydon, Heleringer, De. Butler, Weaver and Bather: AN ACT relating to electronic gaming with related payments to the state and declaring an emergency.

HB 769, by Representative Marzian: AN ACT relating to a consistent public policy for the provision of services to persons with disabilities and the frail elderly.

HB 770, by Representative A. Arnold: AN ACT relating to small precincts and declaring an emergency.

HB 771, by Representative J. Arnold: AN ACT relating to administrative regulations and declaring an emergency.

HB 772, by Representative McKee: AN ACT authorizing public university safety and security officers to aid law enforcement agencies in another country and specifying conditions therefor.

HB 773, by Representative Yonts: AN ACT relating to liens.

HB 774, by Representatives Nunn and Heleringer: AN ACT relating to hospitalization for psychiatric care.

HB 775, by Representative Denham: AN ACT relating to unclaimed property.

HB 776, by Representatives C. Belcher, Treesh, and J. Adams: AN ACT relating to audits of accounts of county officers.

HB 777, by Representative Adkins: AN ACT relating to the Kentucky Asset/Liability Commission.

HB 778, by Representatives Stein, Westrom, and Webb: AN ACT relating to health insurance coverage for contraceptives.

HB 779, by Representative Adkins: AN ACT relating to financing of county law libraries.

HB 780, by Representative Adkins: AN ACT relating to postconsumer waste and recycling equipment.

HB 781, by Representative Crenshaw: AN ACT relating to juries.

HJR 188, by Representatives Thompson and Draud: A JOINT RESOLUTION urging local school districts, postsecondary education institutions, the Kentucky Department of Education, and other education entities to promote the formation of Future Educators Clubs.

HJR 189, by Representative Nunn: A JOINT RESOLUTION urging the United States Congress to expand Medicare coverage to include oral anti-cancer drugs.

HR 190, by Representative McKee: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Wilson Palmer, our colleague and friend.

HJR 191, by Representative Palumbo: A JOINT RESOLUTION directing the Cabinet for Health Services to study the problem of teenage in-vehicle drinking and related drug abuse.

HCR 192, by Representatives Cherry and Geveden: A CONCURRENT RESOLUTION establishing a task force to study the long-term funding needs for Fire Safety and Emergency Medical Service Providers of the Commonwealth of Kentucky.

HR 193, by Representatives C. Belcher, Webb, J. Arnold, P Clark, Simpson, Horlander, Gooch, L. Belcher, Dw. Butler, J. Turner, Weaver, Pullin, Thomas, Stewart, Smith, Comer, Brinkman, Nelson, Damron, Colter, Childers, Reinhardt, De. Butler, Bratcher, Tapp, Treesh, Hall, Buckingham. S. Lee, Sims, Denham, and Yonts: A RESOLUTION declaring the month of May 2002, as Motorcycle Awareness Month.

HR 194, by Representative C. Belcher: A RESOLUTION proclaiming January 18 - 19, 2003 as World Religion Weekend in the Commonwealth of Kentucky.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 697, HB 703**

Health and Welfare: **HB 693**

Agriculture and Small Business: **HB 709**

Transportation: **HB 71, HB 117, HB 498, HB 685, HJR 157, HJR 167, HJR 169, SJR 39, SB 18, SB 107, SJR 16, SJR 23, HJR 92, HJR 140, HJR 168, SB 7**

The Clerk announced that the following Bill and Resolution have been withdrawn from posting from Committee consideration:

Education: **HB 324**

Transportation: **HJR 81**

Motions, Petitons, and Communications (Continued)

Representative Nesler moved the adoption of the following **HR 173**:

HR 173, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Adron Doran.

With deepest respect and appreciation, we pay homage and tribute to Adron Doran, our friend and colleague, and we pause in silent reverence for his soul.

WHEREAS, Adron Doran was born on September 1, 1909, a native of Graves County, Kentucky, and he traversed these earthly bounds on November 22, 2001; and

WHEREAS, Adron Doran was the devoted husband of Mignon McClain Doran, and together they shared 70 years of a loving and binding partnership that was filled with inspiration and success; and he was the loving uncle of a niece, Troy Burgess of Morehead, and two nephews, Dr. George Wyatt of Union and Joe McClain of Paris; and

WHEREAS, Adron Doran earned his B.S. and M.A. degrees at Murray State University and his Ed.D. degree from the University of Kentucky; he served as principal, coach, and teacher of three rural high schools in West Kentucky for 15 years, and his accomplishments as an educator exemplified his professionalism in the classroom; and

WHEREAS, Adron Doran was a great educator; he became president of Morehead State University in 1954, and during his 23-year tenure, he brought the former state college to university status and oversaw a building program that changed the skyline of the Rowan County town that gave its name to the school; his administration saw an enrollment of approximately 700 students in 1954 to nearly 7,700 upon his retirement in 1977; and

WHEREAS, Adron Doran served as president of the Kentucky Education Association; he was president of the First District Education Association and the Eastern Kentucky Education Association, and he represented both districts as a member of the Kentucky Education Association Board of Directors; he was editor of the Fulton Daily Leader from 1947-48; a member of the Kentucky Civil War Centennial Commission, 1958; and he was a member of the Eastern Kentucky Regional Planning and Development Commission from 1959-62; and

WHEREAS, Adron Doran's awards included the Lincoln Key Award, given by the Kentucky Education Association; the Lincoln Foundation for "integration at Morehead State University without incident or fanfare;" he was named "Kentuckian of the Year" in 1959 by the Kentucky Press Association, and he was the recipient of the Horatio Alger Award in 1971; he was named to the University of Kentucky Hall of Distinguished Alumni in 1965; he also was the recipient of the first annual award given by the University chapter of Phi Delta Kappa as an Outstanding Leader in Education, 1971; a Special Achievement Award for Community Service given by the Morehead Lions Club, 1975; Merit Award presented by the American Legion as Outstanding Citizen, 1976; Distinguished Service Award for outstanding contributions to agriculture in Kentucky, presented by Kentucky Livestock Improvement Association in 1975, and the Special Service Award by the Ohio Valley Conference, 1977; he received Morehead State University's Founders Day Award in 1996, and an endowed faculty chair in educational leadership was established by alumni and former colleagues to mark his 90th birthday in 1999; and

WHEREAS, Adron Doran was elected to the House of Representatives in 1944, 1946, and 1950, serving his constituents from Graves County with pride and distinction; he was elected by his peers in 1950 and 1951 as Speaker where he conscientiously guided his fellow legislators through the perils of the legislative process; and

WHEREAS, the passing of Adron Doran has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Adron Doran, our friend and colleague, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Adron Doran.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Mignon McClain Doran, 111 Woodland Avenue, Unit 808, Lexington, Kentucky 40502.

There being no objection **HR 173** was adopted.

Representative Callahan moved the adoption of the following **Legislative Citation No. 62**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Senior Rally Day Participants upon attending this day's activities in Frankfort, Kentucky, sponsored by the Kentucky Association for Gerontology, where senior citizens from across this fine Commonwealth are offered the opportunity to travel to Frankfort to discuss their unique interests, needs and concerns with Kentucky legislators. The members of this honorable body are pleased to join Representative Jim Callahan in expressing appreciation to these honored citizens for participating in this most worthwhile endeavor and for demonstrating a laudable interest in the legislative process of this fine Commonwealth. Done in Frankfort, Kentucky, this twenty-sixth day of February, in the year two thousand and two.

Legislative Citation No. 62 was adopted without objection.

Representative Simpson moved that **HB 472** be withdrawn. Agreed.

Representative Wayne moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Wayne moved that he be recorded as voting "yea" on **HB 369**, Floor Amendment No. 22. Agreed.

Representative Reinhardt moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HB 377, HB 418, HB 501, HB 505, HB 517, HB 540, HB 605, HB 624, HB 643,** and **HCR 138**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 28 to the Committee Substitute to **HB 369**, by Representative Baugh:

On page 8, line 5, after "*law.*" by inserting "***Any mail order option under this program shall allow an individual to purchase a three (3) month supply of a maintenance drug for no more than a two (2) month copayment.***".

Floor Amendment No. 1 to **HB 705**, by Representative Yonts:

On page 1, line 5, after "*term*" by inserting "***for all permits issued on or after the effective date of this Act***".

Floor Amendment No. 2 to the Committee Substitute to **HB 602**, by Representative Geveden:

On page 55, line 23, after the "***,***" insert "***or for economic development projects undertaken in industrial sites, parks and subdivisions, as defined in KRS 154.50-310 authorized by a local industrial development authority established in KRS 154.50-316, where two (2) or more of the participating counties are qualified counties under this section***"; and

On page 55, line 25, before "***industrial***" delete "***regional***" and after "***park***" insert "***site, and subdivision***".

Floor Amendment No. 1 to **HB 613**, by Representative Damron:

On page 1, delete line 21 in its entirety and insert "~~all]~~ appointed by the Governor ***according to the provisions set forth under paragraphs (b) to (f) of this subsection***[~~to serve for terms of four (4) years. The~~" in lieu thereof.

Floor Amendment No. 1 to **HB 535**, by Representative Damron:

On page 1, at line 3, after the word "Congress," by inserting the words "***five hundred dollars ($500)***"; and

On page 1, at line 3, by placing an opening bracket before and striking through the words "two hundred dollars"; and

On page 1, at line 4, by striking through and placing a closing bracket after the words "($200)"; and

On page 2, after line 6, by adding the following new section:

"Section 2. KRS 64.012 is amended to read as follows:

The county clerk shall receive for the following services the following fees:

Recording deed of trust or assignment for the benefit of creditors, provided the entire thereof does not exceed three (3) pages	$8.00
Exceeding three (3) pages, for each page	2.00
Copy and certification of same when ordered	5.00
Each bond required to be taken or prepared by the clerk	3.00
Copy of any bond when ordered	2.00
Recording a bond, each bond	8.00
Receiving the acknowledgment or proof of any deed, mortgage, or agreement, power of attorney, or other written instrument required by law to be done and certifying same	2.00
Taking the acknowledgment or proof of a deed of real estate, certifying and recording the same and recording his own certificate, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Certified copy of deed	5.00
Recording a mortgage of real estate, certificates, and all services connected with the same, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Certified copy of real estate mortgage	5.00
Recording deed of assignment of real estate mortgage	8.00

Noting release of any lien, mortgage, or redemption other than a deed of release	3.00
Receiving the acknowledgment, recording, and certifying each deed of release of a mortgage or lien under KRS 382.360	8.00
Each additional marginal notation relating to same instrument	3.00
Making a record for the establishment of a city, recording the plan or plat thereof, and all other services incident	8.00
Recording survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city	8.00
Every order concerning the establishment, changing, closing, or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed, or discontinued, and by the applicant when it is not	2.00
Administering an oath and certificate thereof	2.00
Issuing license for which no other fee is fixed by law	5.00
Marriage license, bond, certificate and recording	24.00
For filing and indexing an original or continuation financing statement	8.00
For noting a security interest on a certificate of title under KRS Chapter 186A	12.00
For filing and indexing an assignment of a financing statement	8.00
For filing and noting a statement of release of collateral under a financing statement	5.00
Recording real estate options, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Recording power of attorney or revocation of power of attorney, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Recording plats, maps and surveys, not exceeding 24 inches by 36 inches, per page	15.00
Recording all leases which are recordable by law, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Marginal notation to same instrument	3.00
Filing or recording of certification of intention to operate a business under an assumed name	8.00
Filing a lien on a delinquent motor vehicle or trailer bill	8.00
Releasing a lien on a delinquent motor vehicle or trailer bill	2.00
Filing or recording of mechanic's and artisan's liens under KRS Chapter 376	8.00
Filing or recording of notice of lien issued by the Internal Revenue Service	8.00
Filing or recording of notice of lien discharges issued by the Internal Revenue Service	8.00
Filing or recording of lis pendens notice concerning proceedings in bankruptcy and other lis pendens notices, provided the entire record thereof does not exceed three (3) pages	8.00

Exceeding three (3) pages, for each page	2.00
Filing or recording United States liens, provided the entire record per lien does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Filing or recording release of a United States lien, provided the entire record per lien does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Filing or recording state tax or other state liens, other than liens on delinquent motor vehicles or trailers	5.00
Filing release of a state tax or other state lien, other than a lien on a delinquent motor vehicle or trailer	5.00
Filing notification and declaration and petition of candidates for Commonwealth's attorney, District Court, and Circuit Court	***500.00***[~~200.00~~]
Filing notification and declaration and petition of candidates for office in cities of the fifth or sixth class and candidates for county and independent boards of education	20.00
Filing notification and declaration and petition of candidates for boards of soil and water conservation districts	20.00
Filing notification and declaration and petition of candidates for other offices	50.00
Filing declaration of intent to be a write-in candidate for office other than municipal office in a city of the fifth or sixth class	50.00
Filing declaration of intent to be a write-in candidate for municipal office in a city of the fifth or sixth class.	20.00
Recording wills or other probate documents under KRS 394.300	8.00
Registration of licenses for professional persons required to register with the county clerk	8.00
Recording and issuing articles, statements, or reports of corporations pursuant to KRS Chapters 271B, 272 and 273, including articles of incorporation, amendment, restatement of incorporation, merger, consolidation, or dissolution and statements of establishment of a series of shares, cancellation of a series of shares, reduction of capital, intent to dissolve, revocation of voluntary dissolution, or any other statement or report of a foreign or domestic corporation, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Miscellaneous recordings for which no specific fee is set, provided the entire record thereof does not exceed three (3) pages (except military discharges)	8.00
Exceeding three (3) pages, each additional page	2.00
Filing miscellaneous documents for which no specific fee is set, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, each additional page	2.00
Filing petitions other than nominating petitions, provided the petition does not exceed three (3) pages	8.00
Exceeding three (3) pages, each additional page, except that	

the total fee for filing a petition other than a nominating petition shall not exceed $50.00	2.00
Filing certification required by KRS 65.070(1)(a)	5.00
Certification of franchise tax assessment	5.00"

Floor Amendment No. 1 to the Committee Substitute to **HB 319**, by Representative Thomas:

On page 1, line 11, after the last "***,***", by inserting "***are encouraged to purchase Kentucky-grown agricultural products, if available. State agencies***"; and

On page 1, line 16, after "***(2)***", by deleting "***If***", and by inserting:

"***(a) Prospective vendors of Kentucky-grown agricultural products may apply to the Kentucky Department of Agriculture for marketing assistance for the purchase of Kentucky-grown logos or labeling statements to be used on Kentucky-grown agricultural products under KRS 260.015, the Kentucky logo or labeling program.***

(b) Before"; and

On page 1, line 18, after "***260.015***", by inserting "***, and shall provide to the purchasing officer written certification that the agricultural products under consideration for purchase meet the definition of Kentucky-grown agricultural product***"; and

On page 5, after line 1, by inserting:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

If purchasing catfish, state parks shall purchase Kentucky farm-raised catfish if the purchasing officer determines that it is available, can be priced on the menu to encourage its sale, and meets the quality standards set by the Department of Parks. The commissioner of the Department of Parks shall promulgate administrative regulations to implement the purchasing requirement provided by this section as soon as possible after the effective date of this section.".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 86, Representative Nelson

HB 337, Representative Stewart

HB 354, Representatives Bather and Westrom

HB 404, Representative Smith

HB 406, Representative Smith

HB 547, Representative Stewart

HB 654, Representative L. Clark

HB 660, Representative Crimm

HB 674, Representative Crimm

HB 720, Representative Nelson

HB 756, Representative S. Lee

HCR 161, Representatives J. Arnold, C. Belcher, and Webb

HR 193, Representative Pasley.

Announcements

The following meetings were announced:

Budget Review Subcommittee on Justice and Judiciary: Wednesday, February 27, 2002, 10:00 a.m., Room 125

Natural Resources and Environment: Wednesday, February 27, 2002, 9:00 a.m.

Education: Wednesday, February 27, 2002, 7:57 a.m.

Licensing and Occupations: Wednesday, February 27, 2002, noon

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., on Wednesday, February 27, 2002.

The motion that the House adjourn until 2:00 p.m., on Wednesday, February 27, 2002, was adopted by voice vote.

WEDNESDAY, FEBRUARY 27, 2002

THIRTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Doug Gerdts, First Presbyterian Church, Maysville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Moberly moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Moberly moved the adoption of the following **Legislative Citation No. 65**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes the 2001 Kentucky Governor's Scholars and extends to these remarkable young citizens a warm welcome to the House Chambers as they gather in Frankfort, Kentucky, to participate in the Governor's Scholars Legislative Day activities. With great pride, they are hereby honored for demonstrating commendable dedication to academic excellence. Such distinctive achievement as has been attained by these outstanding young people reflects exceptional diligence and talent and brings well-deserved recognition to the schools and communities which are represented by these, Kentucky's best and brightest. The members of this august body are pleased to join Speaker Jody Richards in applauding the members of the 2001 Kentucky Governor's Scholars Program who have joined us on this day and in extending sincere best wishes for their continued success and good fortune. Done in Frankfort, Kentucky, this twenty-seventh day of February, in the year two thousand and two.

Legislative Citation No. 65 was adopted without objection.

Senate Message

Announcing passage of **SB 101, SB 139, SB 179, HB 199, HB 286,** and **HB 308**.

Message received in regard to **HB 47**: The Senate has passed **HB 47** by way of Committee Substitute with the following Senate Floor Amendment No. 1, Senate Floor Amendment No. 2, and Senate Floor Amendment No. 3 and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 97**: The Senate has passed **HB 97** with the following Senate Floor Amendment No. 3 and Senate Floor Amendment No. 4 Title and respectfully requests concurrence of this Honorable Body. (Time: 2:10 p.m.)

Representative Callahan moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Callahan moved the adoption of the following **Legislative Citation No. 67**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the members of the Kentucky Municipal Clerks Association as this remarkable group of consummate professionals celebrate their organization's 25th anniversary and upon visiting the Capitol, in Frankfort, in order to view the daily actions of the Kentucky legislature. The members of the Kentucky House of Representatives are pleased to join Representative Jim Callahan in commending these dedicated public servants and exemplary citizens for demonstrating their interest and involvement in the legislative process by attending this day's activities in the House of Representatives during the Regular Session of the 2002 Kentucky General Assembly. Done in Frankfort, Kentucky, this twenty-seventh day of February, in the year two thousand and two.

Legislative Citation No. 67 was adopted without objection.

Representative Buckingham moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Buckingham moved the adoption of the following **Legislative Citation No. 66**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the participants of the Leadership Tomorrow Class Murray, Kentucky and welcomes these distinguished students upon visiting the Chambers of the Kentucky House of Representatives to view a day of the Regular Session of the 2002 Kentucky General Assembly. Inasmuch as members in this outstanding youth leadership program are provided with an opportunity to learn about community development, a forum for networking and a strong foundation for leadership and are encouraged to become actively involved in community service, the members of this august body are delighted to join Representative Robert "Buddy" Buckingham in applauding these outstanding young citizens for taking part in this worthy endeavor and in extending best wishes for continued success and good fortune. Done in Frankfort, Kentucky, this twenty-seventh day of February, in the year two thousand and two.

Legislative Citation No. 66 was adopted without objection.

Introduction of Bills and Resolutions

HB 782, by Representative Nunn: AN ACT relating to workers' compensation.

HB 783, by Representative Reinhardt: AN ACT relating to the subdivision of land.

HB 784, by Representatives Kerr and R. Adams: AN ACT relating to foster care.

HB 785, by Representative Dw. Butler: AN ACT relating to consumer protection

HB 786, by Representative Dw. Butler: AN ACT relating to consumer protection.

HB 787, by Representative Jenkins: AN ACT relating to state employee salaries and making an appropriation therefor.

HR 195, by Representative Nunn: A RESOLUTION urging BellSouth to reconsider closing its Western Kentucky call center.

HR 196, by Representative Branham: A RESOLUTION urging the Legislative Research Commission to conduct a study relating to the retail sales practices of cigarette manufacturers.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 777, 780**

Banking and Insurance: **HB 778**

Education: **HJR 188**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 770**

Health and Welfare: **HB 763, 765, 766, HJR 189, 191**

Judiciary: **HB 764, 767, 772, 773, 774, 781**

Licensing and Occupations: **HB 768**

Local Government: **HB 776, 779, HCR 192**

Seniors, Military Affairs and Public Safety: **HB 769**

State Government: **HB 771, 775**

Floor Resolutions: **HR 190, 193, 194**

Report of Committees

The Committee on Rules reported that **HB 622, HB 634**, and **SB 61** have been posted for passage in the Orders of the Day for February 28, 2002.

The Committee on Tourism Development and Energy reported **HB 587, HB 671,** with Committee Substitute attached thereto, **HCR 125,** and **SB 116,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 587, AN ACT relating to peace officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 148.290 is amended to read as follows:

(1) The commission may enter into agreements with the[~~ chief of the~~] law enforcement agency of any urban-county or counties in which the State Horse Park is located or in any adjacent county ***or with the State Police*** for proper policing of the State Horse Park[~~, and may arrange with the state for the policing of the State Horse Park by the State Police~~]. ***If authorized to do so by the commission and subject to KRS 61.300, the executive director may commission employees of the park as patrol officers. These patrol officers shall have all the powers of peace officers upon the property of the State Horse Park and the public property and roads traversing or immediately adjacent thereto***[~~The commission may also apply for the appointment of special law enforcement officers to provide security subject to the procedures of KRS 61.900 to 61.930~~].

(2) The commission is authorized to establish by resolution speed limits governing the operation of motor vehicles on horse park property. Notice to the public of such speed limits shall be posted by signs or markings.

HB 671, AN ACT relating to hunting and fishing regulation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.170 is amended to read as follows:

(1) Except as provided in the following subsections of this section, and subject to administrative regulations promulgated under this chapter, no person, resident or nonresident, shall do any act authorized by any kind of license or permit, or assist in any way any person in doing any act provided for in this chapter with respect to wildlife unless he holds the kind of license or permit, resident or nonresident, that authorizes the act. It shall be the specific purpose of this chapter to prohibit the taking or pursuing of any wildlife, protected or unprotected, or the fishing in any stream or body of water whether public or private, without first procuring the license provided for in KRS 150.175, except to the extent as may be otherwise provided in this section.

(2) A person under sixteen (16) years of age may, without a sport fishing license, take fish by angling, or take minnows by the use of a minnow seine, minnow trap, or dip net.

(3) The resident owner of farmlands, his spouse, or dependent children, shall, without procuring any sport hunting or sport fishing licenses, have the right to take fish or hunt during the open season, except trapping, on the farmlands of which they are bona fide owners. Tenants or their dependent children residing upon these farmlands shall have the same privilege.

(4) Residents or nonresidents observing and participating in[~~ any~~] field ***trials, training exercises, or other competitions***[~~trial~~] as authorized by the department may observe and participate without obtaining a hunting ***or guide's*** license so long as game is not taken.

(5) Any resident serviceman on furlough of more than three (3) days in this state may, without any Kentucky sport hunting or sport fishing licenses, do any act authorized by the licenses, but while so doing he shall carry on his person proper identification and papers showing his furlough status.

(6) Resident landowners, their spouses, or dependent children who kill or trap on their lands any wildlife causing damage to the lands or any personal property situated thereon shall not be required to have a hunting or trapping license. Tenants or their dependent children residing upon the lands shall also have the same privilege. Upon destruction of any wildlife by the above-specified individuals, the act shall be reported to the department or the resident conservation officer for the proper disposition of the carcass.

(7) If a reciprocal agreement is entered into by the commissioner, with the approval of the commission, and promulgated as an administrative regulation by the department and similar action is taken by the appropriate authority in Missouri, Tennessee, Virginia, West Virginia, Indiana, Ohio, or Illinois, persons holding a resident or nonresident fishing or a resident or nonresident hunting license issued in these states shall be permitted to perform the acts authorized by the license upon certain contiguous waters and land areas adjacent to the common boundaries of the above-mentioned states and the State of Kentucky. A resident of the State of Kentucky shall purchase a proper Kentucky license to conform with the reciprocal agreement.

Section 2. KRS 150.190 is amended to read as follows:

(1) Any applicant for a commercial guide's license shall be required to present proof to the satisfaction of the commissioner, in accordance with regulations the commissioner may prescribe with the approval of the commission, that he is qualified to act as a commercial guide.

(2) Any applicant for a fur processor's license shall be required to present proof to the satisfaction of the commissioner, in accordance with regulations the commissioner may prescribe with the approval of the commission, that he has sufficient equipment and facilities to engage in the business of processing, manufacture, and storage of raw furs.

(3) A commercial guide's license shall not be required of residents or nonresidents who are participating in field trials, training exercises, or other competitions where no game is harvested.

Section 3. KRS 150.092 is amended to read as follows:

(1) Persons shall not enter upon the lands of another to shoot, hunt, trap, or fish, or for other wildlife-related recreational purposes, without the oral or written permission of the landowner, tenant, or person who has authority to grant permission.

(2) The department may promulgate administrative regulations pursuant to KRS Chapter 13A to establish private lands incentive programs encouraging voluntary access to private lands for hunting, fishing, or other wildlife-related recreation, while at the same time protecting the rights of private property owners. Participation in these programs shall not waive any protection granted to the landowner by KRS 150.645 or 411.190.

(3) A fish and wildlife law enforcement officer may arrest or issue a citation to any person who is in violation of this section or the administrative regulations adopted thereunder.

(4) Persons who enter upon the lands of another to shoot, hunt, trap, or fish, or for other wildlife-related recreational purposes, shall not, through their actions, cause damage to any buildings, fences, crops, livestock or domestic animals, machinery, or other property while upon these lands.

(5) Nothing in this section shall be construed to limit the existing powers of peace officers.

(6) The prohibition in subsection (1) of this section shall not apply to observers, participants, or guides who are taking part in field trials, training exercises, or other competitions as authorized by the department where no game is harvested, unless:

(a) The owner of the private property has posted signs prohibiting hunting or trespassing on his or her private property; or

(b) The owner of the private property has notified the department or the group holding field trials, training exercises, or other competitions that he or she will not permit trespassing on his or her private property.

The Committee Substitute to **HB 671** is as follows:

HB 671, AN ACT relating to hunting and fishing regulation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.170 is amended to read as follows:

(1) Except as provided in the following subsections of this section, and subject to administrative regulations promulgated under this chapter, no person, resident or nonresident, shall do any act authorized by any kind of license or permit, or assist in any way any person in doing any act provided for in this chapter with respect to wildlife unless he holds the kind of license or permit, resident or nonresident, that authorizes the act. It shall be the specific purpose of this chapter to prohibit the taking or pursuing of any wildlife, protected or unprotected, or the fishing in any stream or body of water whether public or private, without first procuring the license provided for in KRS 150.175, except to the extent as may be otherwise provided in this section.

(2) A person under sixteen (16) years of age may, without a sport fishing license, take fish by angling, or take minnows by the use of a minnow seine, minnow trap, or dip net.

(3) The resident owner of farmlands, his spouse, or dependent children, shall, without procuring any sport hunting or sport fishing licenses, have the right to take fish or hunt during the open season, except trapping, on the farmlands of which they are bona fide owners. Tenants or their dependent children residing upon these farmlands shall have the same privilege.

(4) Residents or nonresidents observing and participating in~~[any]~~ field ***trials, training exercises, or other competitions***~~[trial]~~ as authorized by the department may observe and participate without obtaining a hunting ***or guide's*** license so long as game is not taken.

(5) Any resident serviceman on furlough of more than three (3) days in this state may, without any Kentucky sport hunting or sport fishing licenses, do any act authorized by the licenses, but while so doing he shall carry on his person proper identification and papers showing his furlough status.

(6) Resident landowners, their spouses, or dependent children who kill or trap on their lands any wildlife causing damage to the lands or any personal property situated thereon shall not be required to have a hunting or trapping license. Tenants or their dependent children residing upon the lands shall also have the same privilege. Upon destruction of any wildlife by the above-specified individuals, the act shall be reported to the department or the resident conservation officer for the proper disposition of the carcass.

(7) If a reciprocal agreement is entered into by the commissioner, with the approval of the commission, and promulgated as an administrative regulation by the department and similar action is taken by the appropriate authority in Missouri, Tennessee, Virginia, West Virginia, Indiana, Ohio, or Illinois, persons holding a resident or nonresident fishing or a resident or nonresident hunting license issued in these states shall be permitted to perform the acts authorized by the

license upon certain contiguous waters and land areas adjacent to the common boundaries of the above-mentioned states and the State of Kentucky. A resident of the State of Kentucky shall purchase a proper Kentucky license to conform with the reciprocal agreement.

Section 2. KRS 150.190 is amended to read as follows:

(1) Any applicant for a commercial guide's license shall be required to present proof to the satisfaction of the commissioner, in accordance with regulations the commissioner may prescribe with the approval of the commission, that he is qualified to act as a commercial guide.

(2) Any applicant for a fur processor's license shall be required to present proof to the satisfaction of the commissioner, in accordance with regulations the commissioner may prescribe with the approval of the commission, that he has sufficient equipment and facilities to engage in the business of processing, manufacture, and storage of raw furs.

(3) A commercial guide's license shall not be required of residents or nonresidents who are participating in field trials, training exercises, or other competitions where no game is harvested.

HCR 125, A CONCURRENT RESOLUTION reauthorizing the Task Force on Funding for Wildlife conservation.

WHEREAS, the Task Force on Funding for Wildlife Conservation was authorized by the 1996 General Assembly and reauthorized in 1998 and 2000; and

WHEREAS, wildlife-related tourism is a strong economic factor in the Commonwealth; and

WHEREAS, a stable funding source is needed for fish and wildlife work which currently receives no general fund money; and

WHEREAS, important issues in this area will require the oversight and continued attention of this task force;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Task Force on Funding for Wildlife Conservation is reauthorized with 16 members to meet during the 2002 and 2003 interims. The Task Force shall convene not less than twice each year.

Section 2. The task force shall report its findings each year to the Interim Joint Committee on Agriculture and Natural Resources and the Interim Joint Committee on Appropriations and Revenue before December 1, 2002 and December 1, 2003.

Section 3. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

SB 116, AN ACT relating to the Public Service Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.050 is amended to read as follows:

(1) The Public Service Commission shall consist of three (3) members appointed by the Governor with the advice and consent of the Senate. If the Senate is not in session when a term expires or a vacancy occurs, the Governor shall make the appointment to take effect at once, subject to the approval of the Senate when convened. Appointments to the Public Service Commission made more than ninety (90) days prior to a regular session of the General Assembly shall be subject to confirmation by the Joint Interim Committee on Energy. Each of the three (3) members of the commission shall be appointed on or before the first day of July, 1982, for staggered terms as follows: one (1) shall serve until the first day of July, 1983, one (1) until the first day of July, 1984, and one (1) until the first day of July, 1985, and thereafter for a term of four (4) years and until a successor is appointed and qualified. ***Each member***~~[Members]~~ of the commission shall ***be a full-time employee as defined in KRS 18A.005(15)***~~[devote their entire time to the duties of their offices]~~.

(2) The Governor shall appoint one (1) of the commissioners on the commission to act as chairman thereof and the chairman shall be the chief executive officer of the commission. The Governor shall designate one (1) of the commissioners on the commission to serve as vice chairman thereof and act for the chairman in the latter's absence.

(3) Vacancies for unexpired terms shall be filled in the same manner as original appointments, but the appointee shall hold office only to the end of the unexpired term.

The Committee on Natural Resources and Environment reported **HB 496,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 496, AN ACT relating to environmental protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.10-420 is amended to read as follows:

(1) Whenever the cabinet has reason to believe that a violation of any of the provisions of this chapter or any administrative regulation promulgated pursuant thereto has occurred, it shall issue and serve upon the person complained against a ***preliminary*** written notice of the provision of this chapter or the administrative regulation alleged to have been violated and the facts alleged to constitute the violation thereof***. The preliminary written notice shall advise the person complained against of measures necessary to remedy the alleged violation. In the event that the person complained against does not remedy the alleged violation within forty-five (45) days of receipt of the notice, the cabinet may issue a second written notice of the alleged violation, signed by the director of the cabinet's division to which the violation relates,*** and shall require the person so complained against to answer the charges set out in the notice at a hearing before the cabinet at a time not less than twenty-one (21) days after the date of notice, except as provided in KRS 224.10-410 or unless the person complained against waives in writing the twenty-one (21) day period. ***The cabinet shall not be required to issue a preliminary written notice for environmental emergencies, as defined in KRS 224.01-400.***

(2) Any person not previously heard in connection with the issuance of any order or the making of any final determination arising under this chapter by which he considers himself aggrieved may file with the cabinet a petition alleging that the order or final determination is contrary to law or fact and is injurious to him, alleging the grounds and reasons therefor, and demand a hearing. An order or final determination includes, but is not limited to, the issuance, denial, modification, or revocation of a permit, but does not include the issuance of a letter identifying deficiencies in an application for a permit, a registration or a certification, or other nonfinal determinations. This subsection does not abrogate the right to a hearing on a draft permit afforded by KRS 224.40-310. Unless the cabinet considers that the petition is frivolous, it shall serve written notice of the petition on each person named therein and shall schedule a hearing before the cabinet not less than twenty-one (21) days after the date of such notice, except as provided in KRS 224.10-410 or unless the person complained against waives in writing the twenty-one (21) day period. The right to demand a hearing pursuant to this section shall be limited to a period of thirty (30) days after the petitioner has had actual notice of the order or final determination complained of, or could reasonably have had such notice.

The Committee Substitute to **HB 496** is as follows:

HB 496, AN ACT relating to environmental protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.10-420 is amended to read as follows:

(1) Whenever the cabinet has reason to believe that a violation of any of the provisions of this chapter or any administrative regulation promulgated pursuant thereto has occurred, it shall issue and serve upon the person complained against a ***preliminary*** written notice of the provision of this chapter or the administrative regulation alleged to have been violated and the facts alleged to constitute the violation thereof***. The preliminary written notice shall advise the person complained against of measures that may be implemented to remedy the alleged violation. After issuance of a preliminary written notice, the cabinet may issue a formal written notice of the alleged violation, approved by the director of the cabinet's division to which the alleged violation relates,*** and shall require the person so complained against to answer the charges set out in the notice at a hearing before the cabinet at a time not less than twenty-one (21) days after the date of notice, except as provided in KRS 224.10-410 or unless the person complained against waives in writing the twenty-one (21) day period. ***The cabinet shall not be required to issue a preliminary written notice for environmental emergencies, as defined in KRS 224.01-400.***

(2) Any person not previously heard in connection with the issuance of any order or the making of any final determination arising under this chapter by which he considers himself aggrieved may file with the cabinet a petition alleging that the order or final determination is contrary to law or fact and is injurious to him, alleging the grounds and reasons therefor, and demand a hearing. An order or final determination includes, but is not limited to, the issuance, denial, modification, or revocation of a permit, but does not include the issuance of a letter identifying deficiencies in an application for a permit, a registration or a certification, or other nonfinal determinations. This subsection does not abrogate the right to a hearing on a draft permit afforded by KRS 224.40-310. Unless the cabinet considers that the petition is frivolous, it shall serve written notice of the petition on each person named therein and shall schedule a hearing before the cabinet not less than twenty-one (21) days after the date of such notice, except as provided in KRS 224.10-410 or unless the person complained against waives in writing the twenty-one (21) day period. The right to demand a hearing pursuant to this section shall be limited to a period of thirty (30) days after the petitioner has had actual notice of the order or final determination complained of, or could reasonably have had such notice.

The Committee on Education reported **HB 126,** with Committee Substitute attached thereto, **HB 502,** with Committee Substitute attached thereto, **HB 529, HB 553,** with Committee Substitute attached thereto, **HB 626, HB 637,** with Committee Substitute attached thereto, **HB 684, SB 74,** with Committee Substitute attached thereto, and **SB 131,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 126, AN ACT relating to the provision of health care services in the schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The position of education school nurse consultant is created within the Department of Education. This full-time position shall be filled by an individual who:

(a) Holds, at a minimum, a bachelor's degree in nursing with a master's degree in nursing or a related field from an accredited postsecondary institution; and

(b) Is a registered nurse licensed under the provisions of KRS Chapter 314.

(2) The duties of the position of education school nurse consultant shall include, but not be limited to:

(a) Provision of technical assistance to school districts to develop, update, and use standardized protocols and guidelines for health procedures to be performed by health professionals and school personnel. The protocols and guidelines shall include, but not be limited to, the delegation of nursing functions consistent with administrative regulations promulgated by the Kentucky Board of Nursing, the training of designated nonmedical school personnel, and appropriate documentation relating to these protocols;

(b) Consultation, technical assistance, and development of quality improvement measures for the state and local boards of education, individual public schools, and local health departments;

(c) Facilitation of statewide and local data collection and reporting of school health services; and

(d) Promotion of information and resources that relate to the provision of school health services.

(3) The Department of Education shall provide fifty percent (50%) of the personnel costs for the position of education school nurse consultant and may enter into a contractual arrangement, such as a Memorandum of Agreement, with the Department for Public Health to share the costs associated with the position of education school nurse consultant.

(4) The Kentucky Board of Education, after consultation with the Department of Public Health, shall promulgate administrative regulations in accordance with KRS Chapter 13A to further specify the duties and other employment requirements for the position of education school nurse consultant.

SECTION 2. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) As used in this Section:

(a) "Health services" means the provision of direct health care, including the administration of medication; the operation, maintenance, or health care through the use of medical equipment; or the administration of clinical procedures. "Health services" does not include first aid or emergency procedures; and

(b) "School employee" means an employee of the public schools of this Commonwealth.

(2) Health services shall be provided, within the health care professional's current scope of practice, in a school setting by:

(a) A physician who is licensed under the provisions of KRS Chapter 311;

(b) An advanced registered nurse practitioner, registered nurse, or licensed practical nurse who is licensed under the provisions of KRS Chapter 314; or

(c) A school employee who:

1. Willingly accepts the delegation of responsibility to perform the health service by a physician, advanced registered nurse practitioner, or registered nurse;

2. Has been trained by the delegating physician or delegating nurse for the specific health service for the specific student, if that health service is one that could be delegated by the physician or nurse within his or her scope of practice; and

3. Has been approved in writing by the delegating physician or delegating nurse. The approval shall state that the school employee possesses sufficient training and skills and has demonstrated competency to safely and effectively perform the health service. The school employee shall acknowledge receipt of training by signing the approval form. A copy of the approval form shall be maintained in the student's record and the personnel file of the school employee.

SECTION 3. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) A school employee shall not refuse to provide a health service if the employee:

(a) Has willingly accepted the delegation of the responsibility to perform the health service by a physician, advanced registered nurse practitioner, or registered nurse;

(b) Has received training for the health service by a physician or nurse, if the service is within the physician's or

nurse's current scope of practice; and

(c) Has been approved in writing by the delegating physician or delegating nurse and has signed the approval form as required in subsection (2)(c)3. of Section 2 of this Act.

(2) A copy of the protocols and guidelines developed under subsection (2)(a) of Section 1 of this Act shall be made available to each school in the Commonwealth and shall be maintained by each school in the school's library.

(3) If an employee has not been trained and approved to perform a health service as required in subsection (2)(c) of Section 2 of this Act, and in order to prevent a loss of a health service from affecting the student's attendance or program participation, the school district shall immediately make any necessary arrangement for the provision of the health service to the student. The school district shall continue with this arrangement until appropriate school personnel are delegated the responsibility for health care in accordance with Section 2 of this Act.

(4) There shall be no cause for disciplinary action from school administrators, the state or local boards of education, or any licensing or certification board or agency as a result of a refusal to accept training or delegation under subsection (1) of this section.

(5) The school employee accepting delegation for performing a health service shall act as an agent of the school. No individual school employee shall incur personal liability for a health service performed based upon the good faith understanding that the health service was provided in accordance with Section 2 of this Act.

(6) Nothing in this section shall be construed to deny a student his or her right to attend public school and to receive public school services, or to deny, prohibit, or limit the administration of emergency first aid or emergency procedures.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The Department for Public Health shall provide fifty percent (50%) of the personnel costs for the position of education school nurse consultant created in Section 1 of this Act. The Department for Public Health may enter into a contractual arrangement, such as a Memorandum of Agreement, with the Department of Education to share the costs associated with the position of education school nurse consultant.

(2) The Department for Public Health shall provide access, information, assistance, and support to the education school nurse consultant necessary to assist and enable the education school nurse consultant to fulfill the duties specified in Section 1 of this Act.

(3) It is the intent of the General Assembly that there be no duplication of services or duties between the Department of Education and the Department for Public Health relating to school health services and that the position of education school nurse consultant created in Section 1 of this Act serve as a technical advisor and liaison among state agencies, local school districts, and local health departments.

The Committee Substitute to **HB 126** is as follows:

HB 126, AN ACT relating to the provision of health care services in the schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The Department of Education shall provide leadership and assistance to local school districts relating to student health services. The department, working in cooperation with the Department for Public Health, shall provide, contract for services, or identify resources to improve student health services, including but not limited to the following:

(a) Standardized protocols and guidelines for health procedures to be performed by health professionals and school personnel. The protocols and guidelines shall include, but not be limited to, the delegation of nursing functions consistent with administrative regulations promulgated by the Kentucky Board of Nursing, the training of designated nonmedical school personnel, and appropriate documentation relating to these protocols. A copy of the protocols and guidelines shall be made available to each school in the Commonwealth and shall be maintained by each school in the school's library;

(b) Consultation, technical assistance, and development of quality improvement measures for the state and local boards of education, individual public schools, and local health departments;

(c) Facilitation of statewide and local data collection and reporting of school health services; and

(d) Information and resources that relate to the provision of school health services.

(2) The Department of Education shall establish a position to assist in carrying out the responsibilities required under subsection (1) of this section. The position may be established with existing personnel resources, or by contract, with an individual who:

(a) Holds, at a minimum, a bachelor's degree in nursing with a master's degree in nursing or a related field from an accredited postsecondary institution; and

(b) Is a registered nurse licensed under the provisions of KRS Chap 314.

(3) The Department of Education shall provide fifty percent (50 f the s for the p on required by subsection (2)

of this section and the Department for Public Health shall provide the remaining fifty percent (50%) for the position. The Department of Education may enter into a contractual arrangement, such as a Memorandum of Agreement, with the Department for Public Health to share the costs.

SECTION 2. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Health services" means the provision of direct health care, including the administration of medication; the operation, maintenance, or health care through the use of medical equipment; or the administration of clinical procedures. "Health services" does not include first aid or emergency procedures; and

(b) "School employee" means an employee of the public schools of this Commonwealth.

(2) Health services shall be provided, within the health care professional's current scope of practice, in a school setting by:

(a) A physician who is licensed under the provisions of KRS Chapter 311;

(b) An advanced registered nurse practitioner, registered nurse, or licensed practical nurse who is licensed under the provisions of KRS Chapter 314; or

(c) A school employee who is delegated responsibility to perform the health service by a physician, advanced registered nurse practitioner, or registered nurse; and

1. Has been trained by the delegating physician or delegating nurse for the specific health service, if that health service is one that could be delegated by the physician or nurse within his or her scope of practice; and

2. Has been approved in writing by the delegating physician or delegating nurse. The approval shall state that the school employee is willing to perform the health service, possesses sufficient training and skills, and has demonstrated competency to safely and effectively perform the health service. The school employee shall acknowledge receipt of training by signing the approval form. A copy of the approval form shall be maintained in the student's record and the personnel file of the school employee. A delegation to a school employee under this paragraph shall be valid only for the current school year.

(3) If no school employee has been trained and delegated responsibility to perform a health service, the school district shall immediately make any necessary arrangement for the provision of the health service to the student in order to prevent a loss of a health service from affecting the student's attendance or program participation. The school district shall continue with this arrangement until appropriate school personnel are delegated the responsibility for health care in subsection (2) of this section.

(4) A school employee who has been properly delegated responsibility for performing a medical procedure under Section 2 of this Act shall act as an agent of the school and be granted liability protection under the Federal Paul P. Coverdell Teacher Liability Protection Act of 2001, Public Law 107-110, unless the claimant establishes by clear and convincing evidence that harm was proximately caused by an act or omission of the school employee that constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights and safety of the individual harmed.

(5) Nothing in this section shall be construed to deny a student his or her right to attend public school and to receive public school services, or to deny, prohibit, or limit the administration of emergency first aid or emergency procedures.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The Department for Public Health shall provide fifty percent (50%) of the costs for the position created in subsection (2) of Section 1 of this Act. The Department for Public Health may enter into a contractual arrangement, such as a Memorandum of Agreement, with the Department of Education to share the costs.

(2) The Department for Public Health shall provide access, information, assistance, and support to the education school nurse consultant necessary to assist and support the Department of Education to fulfill the duties specified in Section 1 of this Act.

(3) It is the intent of the General Assembly that there be no duplication of services or duties between the Department of Education and the Department for Public Health relating to school health services and that the position created in subsection (2) of Section 1 of this Act serve as a technical advisor and liaison among state agencies, local school districts, and local health departments.

HB 502, AN ACT relating to student discipline.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.150 is amended to read as follows:

(1) All pupils admitted to the common schools shall comply with the lawful regulations for the government of the schools:

(a) Willful disobedience or defiance of the authority of the teachers or administrators, use of profanity or vulgarity, assault or battery or abuse of other students, the threat of force or violence, the use or possession of alcohol or drugs, stealing or destruction or defacing of school property or personal property of students, the carrying or use of weapons or dangerous instruments, or other incorrigible bad conduct on school property, as well as off school property at school-sponsored activities, constitutes cause for suspension or expulsion from school; and

(b) Assault or battery or abuse of school personnel; stealing or willfully or wantonly defacing, destroying, or damaging the personal property of school personnel on school property, off school property, or at school-sponsored activities constitutes cause for suspension or expulsion from school.

(2) Each local board of education shall adopt a policy requiring the expulsion from school for a period of not less than one (1) year for a student who is determined by the board to have brought a weapon to a school under its jurisdiction. The board shall also adopt a policy requiring disciplinary actions, up to and including expulsion from school, for a student who is determined by the board to have possessed prescription drugs or controlled substances for the purpose of sale or distribution at a school under the board's jurisdiction, or to have physically assaulted or battered or abused educational personnel or other students at a school or school function under the board's jurisdiction. The board may modify the expulsion requirement for students on a case-by-case basis. A board that has expelled a student from the student's regular school setting shall provide or assure that educational services are provided to the student in an appropriate alternative program or setting, unless the board has made a determination, on the record, supported by clear and convincing evidence, that the expelled student poses a threat to the safety of other students or school staff and cannot be placed into a state-funded agency program. Other intervention services as indicated for each student may be provided by the board or by agreement with the appropriate state or community agency. A state agency that provides the service shall be responsible for the cost. In determining whether a student has brought a weapon to school, a local board of education shall use the definition of "unlawful possession of a weapon on school property" stated in KRS 527.070.

(3) School administrators, teachers, or other school personnel may immediately remove or cause to be removed threatening or violent students from a classroom setting or from the district transportation system pending any further disciplinary action that may occur. Each board of education shall adopt a policy to assure the implementation of this section and to assure the safety of the students and staff.

(4) A pupil shall not be suspended from the common schools until after at least the following due process procedures have been provided:

(a) The pupil has been given oral or written notice of the charge or charges against him which constitute cause for suspension;

(b) The pupil has been given an explanation of the evidence of the charge or charges if the pupil denies them; and

(c) The pupil has been given an opportunity to present his own version of the facts relating to the charge or charges.

These due process procedures shall precede any suspension from the common schools unless immediate suspension is essential to protect persons or property or to avoid disruption of the ongoing academic process. In such cases, the due process procedures outlined above shall follow the suspension as soon as practicable, but no later than three (3) school days after the suspension.

(5) The superintendent, principal, assistant principal, or head teacher of any school may suspend a pupil but shall report the action in writing immediately to the superintendent and to the parent, guardian, or other person having legal custody or control of the pupil. The board of education of any school district may expel any pupil for misconduct as defined in subsection (1) of this section, but the action shall not be taken until the parent, guardian, or other person having legal custody or control of the pupil has had an opportunity to have a hearing before the board. The decision of the board shall be final.

(6) (a) Suspension of exceptional children, as defined in KRS 157.200, shall be considered a change of educational placement if:

1. The child is removed for more than ten (10) consecutive days during a school year; or

2. The child is subjected to a series of removals that constitute a pattern because the removals accumulate to more than ten (10) school days during a school year and because of other factors, such as the length of each removal, the total amount of time the child is removed, and the proximity of removals to one another.

(b) The admissions and release committee shall meet to review the placement and make a recommendation for continued placement or a change in placement and determine whether regular suspension or expulsion procedures apply. Additional evaluations shall be completed, if necessary.

(c) If the admissions and release committee determines that an exceptional child's behavior is related to his disability, the child shall not be suspended any further or expelled unless the current placement could result in injury to the child, other children, or the educational personnel, in which case an appropriate alternative placement shall be provided that will provide for the child's educational needs and will provide a safe learning and teaching environment for all. If the admissions and release committee determines that the behavior is not related to the disability, the local educational agency may pursue its regular suspension or expulsion procedure for the child, if the behavior so warrants. However, educational services shall not be terminated during a period of expulsion and during a suspension after a student is suspended for more than a total of ten (10) days during a school year. A district may seek temporary injunctive relief through the courts if the parent and the other members of the admissions and release committee cannot agree upon a placement and the current placement will likely result in injury to the student or others.

(7) Suspension of primary school students shall be considered only in exceptional cases where there are safety issues for the child or others. ***Suspension or expulsion of primary students shall be permitted after a local school district has followed the procedures outlined in the code of behavior and discipline adopted by the local board of education in accordance with KRS 158.148(4) and the due process requirements outlined in subsection (4) of this section.***

The Committee Substitute to **HB 502** is as follows:

HB 502, AN ACT relating to student discipline.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.150 is amended to read as follows:

(1) All pupils admitted to the common schools shall comply with the lawful regulations for the government of the schools:

(a) Willful disobedience or defiance of the authority of the teachers or administrators, use of profanity or vulgarity, assault or battery or abuse of other students, the threat of force or violence, the use or possession of alcohol or drugs, stealing or destruction or defacing of school property or personal property of students, the carrying or use of weapons or dangerous instruments, or other incorrigible bad conduct on school property, as well as off school property at school-sponsored activities, constitutes cause for suspension or expulsion from school; and

(b) Assault or battery or abuse of school personnel; stealing or willfully or wantonly defacing, destroying, or damaging the personal property of school personnel on school property, off school property, or at school-sponsored activities constitutes cause for suspension or expulsion from school.

(2) Each local board of education shall adopt a policy requiring the expulsion from school for a period of not less than one (1) year for a student who is determined by the board to have brought a weapon to a school under its jurisdiction. The board shall also adopt a policy requiring disciplinary actions, up to and including expulsion from school, for a student who is determined by the board to have possessed prescription drugs or controlled substances for the purpose of sale or distribution at a school under the board's jurisdiction, or to have physically assaulted or battered or abused educational personnel or other students at a school or school function under the board's jurisdiction. The board may modify the expulsion requirement for students on a case-by-case basis. A board that has expelled a student from the student's regular school setting shall provide or assure that educational services are provided to the student in an appropriate alternative program or setting, unless the board has made a determination, on the record, supported by clear and convincing evidence, that the expelled student poses a threat to the safety of other students or school staff and cannot be placed into a state-funded agency program. Other intervention services as indicated for each student may be provided by the board or by agreement with the appropriate state or community agency. A state agency that provides the service shall be responsible for the cost. In determining whether a student has brought a weapon to school, a local board of education shall use the definition of "unlawful possession of a weapon on school property" stated in KRS 527.070.

(3) School administrators, teachers, or other school personnel may immediately remove or cause to be removed threatening or violent students from a classroom setting or from the district transportation system pending any further disciplinary action that may occur. Each board of education shall adopt a policy to assure the implementation of this section and to assure the safety of the students and staff.

(4) A pupil shall not be suspended from the common schools until after at least the following due process procedures have been provided:

(a) The pupil has been given oral or written notice of the charge or charges against him which constitute cause for suspension;

(b) The pupil has been given an explanation of the evidence of the charge or charges if the pupil denies them; and

(c) The pupil has been given an opportunity to present his own version of the facts relating to the charge or charges.

These due process procedures shall precede any suspension from the common schools unless immediate suspension is essential to protect persons or property or to avoid disruption of the ongoing academic process. In such cases, the due process procedures outlined above shall follow the suspension as soon as practicable, but no later than three (3) school days after the suspension.

(5) The superintendent, principal, assistant principal, or head teacher of any school may suspend a pupil but shall report the action in writing immediately to the superintendent and to the parent, guardian, or other person having legal custody or control of the pupil. The board of education of any school district may expel any pupil for misconduct as defined in subsection (1) of this section, but the action shall not be taken until the parent, guardian, or other person having legal custody or control of the pupil has had an opportunity to have a hearing before the board. The decision of the board shall be final.

(6) (a) Suspension of exceptional children, as defined in KRS 157.200, shall be considered a change of educational placement if:

1. The child is removed for more than ten (10) consecutive days during a school year; or

2. The child is subjected to a series of removals that constitute a pattern because the removals accumulate to

more than ten (10) school days during a school year and because of other factors, such as the length of each removal, the total amount of time the child is removed, and the proximity of removals to one another.

(b) The admissions and release committee shall meet to review the placement and make a recommendation for continued placement or a change in placement and determine whether regular suspension or expulsion procedures apply. Additional evaluations shall be completed, if necessary.

(c) If the admissions and release committee determines that an exceptional child's behavior is related to his disability, the child shall not be suspended any further or expelled unless the current placement could result in injury to the child, other children, or the educational personnel, in which case an appropriate alternative placement shall be provided that will provide for the child's educational needs and will provide a safe learning and teaching environment for all. If the admissions and release committee determines that the behavior is not related to the disability, the local educational agency may pursue its regular suspension or expulsion procedure for the child, if the behavior so warrants. However, educational services shall not be terminated during a period of expulsion and during a suspension after a student is suspended for more than a total of ten (10) days during a school year. A district may seek temporary injunctive relief through the courts if the parent and the other members of the admissions and release committee cannot agree upon a placement and the current placement will likely result in injury to the student or others.

(7) Suspension of primary school students shall be considered only in exceptional cases where there are safety issues for the child or others. ***Suspension of primary students shall be permitted after a local school district has followed the procedures outlined in the code of behavior and discipline adopted by the local board of education in accordance with KRS 158.148(4) and the due process requirements outlined in subsection (4) of this section.***

HB 529, AN ACT relating to school closings for elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour instructional days. A board of education may extend its term beyond the minimum term.

(2) The local board of education, upon recommendation of the local school district superintendent, shall adopt a school calendar for the upcoming school year that establishes the opening and closing dates of the school term, beginning and ending dates of each school month, instructional days, and days on which schools shall be dismissed. The local board may schedule days for breaks in the school calendar that shall not be counted as a part of the minimum school term.

(3) Any local board of education operating its schools on a year-round school program basis shall conform with administrative regulations promulgated and adopted by the Kentucky Board of Education upon the recommendation of the commissioner of education, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum instructional term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(4) (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of pupils pursuant to the requirements of KRS 156.095. At the discretion of the superintendent, one (1) day of professional development may be used for district-wide activities and for training that is mandated by federal or state law. The use of three (3) days shall be planned by each school council, except that the district is encouraged to provide technical assistance and leadership to school councils to maximize existing resources and to encourage shared planning.

(b) A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred eighty-five (185) days that a teacher shall be employed.

1. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.

2. No teacher or administrator shall be permitted to count participation in a professional development activity under the flexible schedule option unless the activity is related to the teacher's classroom assignment and content area, or the administrator's job requirements, or is required by the school improvement or consolidated plan, or is tied to the teacher's or the administrator's individual growth plan. The supervisor shall give prior approval and shall monitor compliance with the requirements of this paragraph. In the case of teachers, a professional development committee or the school council by council policy may be

responsible for reviewing requests for approval.

(c) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.

(d) Each local board may use two (2) days for planning activities without the presence of pupils.

(e) Each local board may use the number of days deemed necessary for:

1. National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;

2. Local disaster which would endanger the health or safety of children; and

3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the commissioner of education.

(5) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt administrative regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (4)(e)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.

(6) (a) In setting the school calendar, school may be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings may be scheduled to begin with the first Thursday after Easter, or largest paid membership, the commissioner of education may designate alternate dates. If schools are scheduled to operate during days designated for the statewide professional meeting, the school district shall permit teachers who are delegates to attend as compensated professional leave time and shall employ substitute teachers in their absence. The commissioner of education shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. School shall be closed on the day of a regular election, ***and may be closed on the day of a primary election,*** and ***those days***[~~that day~~] may be used for professional development activities, professional meetings, or parent-teacher conferences.

(b) All schools shall be closed on the third Monday of January in observance of the birthday of Martin Luther King, Jr. Districts may:

1. Designate the day as one (1) of the four (4) holidays permitted under subsection (4)(c) of this section; or

2. Not include the day in the minimum school term specified in subsection (1) of this section.

(7) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(8) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the school day.

(9) Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section.

(10) Notwithstanding the provisions of KRS 158.060(3) and the provisions of subsection (1) of this section, a school district shall arrange bus schedules so that all buses arrive in sufficient time to provide breakfast prior to the instructional day. In the event of an unforeseen bus delay, the administrator of a school that participates in the Federal School Breakfast Program may authorize up to fifteen (15) minutes of the six (6) hour instructional day if necessary to provide the opportunity for children to eat breakfast not to exceed eight (8) times during the school year within a school building.

HB 553, AN ACT relating to children's physical health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A legislative task force composed of members selected from the Interim Joint Committee on Health and Welfare and members of the Interim Joint Committee on Education shall be appointed to study the obesity epidemic and the health consequences of obesity in Kentucky's youth.

(1) The task force shall be composed of ten (10) members of the General Assembly and seven (7) other members.

 (a) The legislative members shall be selected from members of the Interim Joint Committees on Education and the Interim Joint Committee on Health and Welfare. Three (3) members shall be appointed by the President of the Senate, three members (3) shall be appointed by the Speaker of the House, two (2) members shall be appointed by the Senate Minority Floor Leader, and two (2) members shall be appointed by the House Minority Floor Leader. All legislative appointments shall be approved by the Legislative Research Commission.

 (b) The Legislative Research Commission shall appoint seven (7) members representing governmental agencies, health organizations, and the medical field from recommendations of the Lt. Governor, which shall include a representative from the Lt. Governor's Office and persons who served on the 2000-2001 Lt. Governor's Task Force on Type 2 Diabetes and Overweight in Children. Appointments shall be made by August 15, 2002.

 (c) The President of the Senate and the Speaker of the House shall each appoint a co-chair from legislative members on the task force who shall be approved by the Legislative Research Commission.

 (d) The task force may employ consultants, request and hear testimony, or take other necessary steps to complete its study with the approval of the Legislative Research Commission.

 (e) The task force shall:

  1. Collect local and statewide data to determine actual statistics on the number of overweight and obese children in the state and the economic impact to the state;

  2. Promote public awareness of the health issues related to childhood obesity, including the increased risk for cardiovascular disease, type 2 diabetes and other chronic diseases, as well as social issues related to childhood obesity;

  3. Identify agencies and current programs available for the prevention and treatment of obesity in children;

  4. Examine the roles that the Departments of Education and Public Health and other agencies may play in the prevention of overweight and obesity and in the education, referral, and support of overweight and obese children and their families;

  5. Examine the current federal guidelines for the national school breakfast and lunch programs to determine if the state should adopt additional guidelines such as water and fiber requirements to improve the nutritional value of meals served in schools; and

  6. Develop a strategic plan based on the United States Surgeon General's call to action to prevent and decrease overweight and obesity.

(2) The task force shall present recommendations to the Interim Joint Committee on Education, the Interim Joint Committee on Health and Welfare, and the Legislative Research Commission no later than August 31, 2003.

(3) Provisions of this section to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Section 2. KRS 156.160 is amended to read as follows:

(1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:

 (a) Courses of study for the different grades and kinds of common schools identifying the common curriculum content directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and KRS 158.6453 and distributed to local school districts and schools. They shall include the following: The courses of study for students shall include American sign language which shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law;

 (b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

 (c) The minimum requirements for high school graduation in light of the expected outcomes for students and schools set forth in KRS 158.6451. Student scores from any assessment administered under KRS 158.6453 that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission;

 (d) Taking and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;

(e) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;

(f) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;

(g) ***Thirty (30) minutes of structured, moderate-to-vigorous physical activity each day with the following implementation schedule: beginning in the 2003-2004 school year, preschool through the intermediate program; beginning in the 2004-2005 school year, the middle school program; and beginning in the 2005-2006 school year, the high school program. The required physical activity shall be completed in at least fifteen (15) minute segments. The administrative regulation shall specify alternative plans and optional activities for integration of daily physical activity during the school day;***

(h) A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a vision examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that the child is enrolled in a public school, public preschool, or Head Start program;

(i)[~~(h)~~] The transportation of children to and from school;

(j)[~~(i)~~] The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(k)[~~(j)~~] The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;

(l)[~~(k)~~] A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(m)[~~(l)~~] The disposal of real and personal property owned by local boards of education.

(2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include, but are not limited to, the following:

1. An alternative approach will achieve the same result required by the administrative regulation;
2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or
3. There is a finding of good cause for the waiver.

(b) The following shall not be subject to waiver:

1. Administrative regulations relating to health and safety;
2. Administrative regulations relating to civil rights;
3. Administrative regulations required by federal law; and
4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.

(c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.

Section 3. KRS 156.990 is amended to read as follows:

(1) Any witness who fails, without legal excuse, to attend or to testify, when required by the chief state school officer under these provisions, shall be fined not more than twenty-five dollars ($25) for each offense.

(2) Any person who violates any of the provisions of KRS 156.400 to 156.470 shall be fined not more than five hundred dollars ($500) or imprisoned not more than three (3) months, or both.

(3) A violation of subsection (1) of KRS 156.483 shall cause the Department of Education to be fined not less than five hundred dollars ($500) or more than one thousand dollars ($1,000).

(4) Any public school that violates the provisions of Section 4 of this Act shall be subject to a penalty to be assessed by the commissioner of education as follows:

(a) The first violation shall result in a fine of no less than one (1) week's revenue from the sale of the competitive food or beverage;

(b) Subsequent violations shall result in a fine of no less than one (1) month's revenue from the sale of the competitive food or beverage;

(c) "Habitual violations," which means five (5) or more violations within a six (6) month period, shall result in a six (6) month ban on competitive food and beverage sales for the violating school; and

(d) Revenue collected as a result of the fines in this subsection shall be transferred to the food service fund of the local school district.

SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, unless the contest requires otherwise, "school day" means the period of time between the arrival of the first student at the school building and the end of the last instructional period.

(2) During a school day, a school shall not sell the following items through vending machines, school stores, canteens, or fundraisers by students, teachers, or groups: "chewing gum, soda waters, and water ices" as defined in 7 C.F.R. sec. 210; "candy" which means any item that contains more than forty percent (40%) added sugar by weight; any juice or juice product that contains less than thirty-five percent (35%) real juice; or other items, except seeds and nuts, that contain more than eight (8) grams of fat per serving.

(3) Each school shall provide at least six (6) grams of naturally occurring dietary fiber in school lunches, averaged over a period of one (1) week.

(4) A school may offer for a la carte sale on the cafeteria line only those items that meet the United States Department of Agriculture standard for a breakfast or lunch component.

(5) "High schools," which means school configurations of grades nine (9) to twelve (12), ten (10) to twelve (12), and eleven (11) to twelve (12), may sell soda waters one-half (1/2) hour after the close of the last lunch serving period.

(6) Each school is encouraged to offer, serve, sell, or otherwise make water available to students.

SECTION 5. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) Each school district shall appoint a food service director who is responsible for the management and oversight of the food service program in the district, except two (2) or more contiguous districts may form one (1) "school food service area" and a school food service director shall be selected by the participating school superintendents to oversee the "school food service area."

(2) (a) Any person serving as a school food service director on the effective date of this Act and who does not hold the "school foodservice and nutrition specialist" credential or the Level 2 certificate issued by the American School Food Service Association shall obtain the appropriate credential by July 30, 2005.

(b) Any person appointed to serve as school food service director after the effective date of this Act who does not hold the "school foodservice and nutrition specialist" credential or the Level 2 certificate issued by the American School Food Service Association shall obtain the appropriate credential within three (3) years of his or her appointment.

(c) Ten (10) clock hours of the required continuing education for maintaining the appropriate certificate under this subsection shall be directly related to applied nutrition and healthy meal planning and preparation.

(3) School cafeteria managers shall annually receive at least two (2) hours of continuing education in applied nutrition and healthy meal planning and preparation.

The Committee Substitute to is as follows:

HB 553, AN ACT relating to children's physical health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A legislative task force composed of members selected from the Interim Joint Committee on Health and Welfare and members of the Interim Joint Committee on Education shall be appointed to study the obesity epidemic and the health consequences of obesity in Kentucky's youth.

(1) The task force shall be composed of ten (10) members of the General Assembly and nine (9) other members.

(a) The legislative members shall be selected from members of the Interim Joint Committees on Education and the Interim Joint Committee on Health and Welfare. Three (3) members shall be appointed by the President of the

Senate, three members (3) shall be appointed by the Speaker of the House, two (2) members shall be appointed by the Senate Minority Floor Leader, and two (2) members shall be appointed by the House Minority Floor Leader. All legislative appointments shall be approved by the Legislative Research Commission.

(b) The Legislative Research Commission shall appoint nine (9) members representing governmental agencies, health organizations, and the medical field from recommendations of the Lt. Governor, which shall include a representative from the Lt. Governor's Office, the Commissioner of the Department for Public Health, the Commissioner of the Department of Education, and persons who served on the 2000-2001 Lt. Governor's Task Force on Type 2 Diabetes and Overweight in Children. Appointments shall be made by August 15, 2002.

(c) The President of the Senate and the Speaker of the House shall each appoint a co-chair from legislative members on the task force who shall be approved by the Legislative Research Commission.

(d) The task force may employ consultants, request and hear testimony, or take other necessary steps to complete its study with the approval of the Legislative Research Commission.

(e) The task force shall:

1. Collect local and statewide data to determine actual statistics on the number of overweight and obese children in the state and the economic impact to the state;
2. Promote public awareness of the health issues related to childhood obesity, including the increased risk for cardiovascular disease, type 2 diabetes and other chronic diseases, as well as social issues related to childhood obesity;
3. Identify agencies and current programs available for the prevention and treatment of obesity in children;
4. Examine the roles that the Departments of Education and Public Health and other agencies may play in the prevention of overweight and obesity and in the education, referral, and support of overweight and obese children and their families;
5. Examine the current federal guidelines for the national school breakfast and lunch programs to determine if the state should adopt additional guidelines such as water and fiber requirements to improve the nutritional value of meals served in schools;
6. Develop a strategic plan based on the United States Surgeon General's call to action to prevent and decrease overweight and obesity;
7. Study and make recommendations regarding requirements for structured physical activity during the school day;
8. Develop resource materials, with the assistance of health professionals, school officials, and parent organizations, that schools may use to help educate parents on childhood obesity and related health implications; and
9. Review the nationally recognized "Fit For Life" program, endorsed by the Centers for Disease Control and Prevention to determine the feasibility of implementing this program statewide to promote health and wellness.

(2) The task force shall present recommendations to the Interim Joint Committee on Education, the Interim Joint Committee on Health and Welfare, and the Legislative Research Commission no later than August 31, 2003.

(3) Provisions of this section to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Section 2. KRS 156.160 is amended to read as follows:

(1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:

(a) Courses of study for the different grades and kinds of common schools identifying the common curriculum content directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and KRS 158.6453 and distributed to local school districts and schools. They shall include the following: The courses of study for students shall include American sign language which shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law;

(b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(c) The minimum requirements for high school graduation in light of the expected outcomes for students and schools set forth in KRS 158.6451. Student scores from any assessment administered under KRS 158.6453 that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission;

(d) Taking and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;

(e) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;

(f) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;

(g) ***The Kentucky Board of Education shall develop a plan to incorporate the recommendations of the United States Surgeon General related to overweight and physical activity in schools;***

(h) The Kentucky Board of Education is encouraged to promote local school districts to implement thirty (30) minutes of structured, moderate to vigorous physical activity in at least fifteen (15) minute segments. If any administrative regulations are promulgated under this paragraph, they shall include alternative plans and optional activities for integration of daily physical activity during the school day;

(i) A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a vision examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that the child is enrolled in a public school, public preschool, or Head Start program;

(j)[~~(h)~~] The transportation of children to and from school;

(k)[~~(i)~~] The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(l)[~~(j)~~] The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;

(m)[~~(k)~~] A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(n)[~~(l)~~] The disposal of real and personal property owned by local boards of education.

(2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include, but are not limited to, the following:

1. An alternative approach will achieve the same result required by the administrative regulation;
2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or
3. There is a finding of good cause for the waiver.

(b) The following shall not be subject to waiver:

1. Administrative regulations relating to health and safety;
2. Administrative regulations relating to civil rights;
3. Administrative regulations required by federal law; and
4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.

(c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.

Section 3. KRS 156.990 is amended to read as follows:

(1) Any witness who fails, without legal excuse, to attend or to testify, when required by the chief state school officer under these provisions, shall be fined not more than twenty-five dollars ($25) for each offense.

(2) Any person who violates any of the provisions of KRS 156.400 to 156.470 shall be fined not more than five hundred dollars ($500) or imprisoned not more than three (3) months, or both.

(3) A violation of subsection (1) of KRS 156.483 shall cause the Department of Education to be fined not less than five hundred dollars ($500) or more than one thousand dollars ($1,000).

(4) Any public school that violates the provisions of Section 4 of this Act shall be subject to a penalty to be assessed by the commissioner of education as follows:

(a) The first violation shall result in a fine of no less than three (3) day's net revenue from the sale of the competitive food or beverage;

(b) Subsequent violations shall result in a fine of no less than one (1) week's net revenue from the sale of the competitive food or beverage; and

(c) Revenue collected as a result of the fines in this subsection shall be transferred to the food service fund of the local school district.

SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, unless the contest requires otherwise, "school day" means the period of time between the arrival of the first student at the school building and the end of the last instructional period.

(2) Beginning in the 2003-2004 school year, a school shall not sell to students during the school day the following items through vending machines, school stores, canteens, or fundraisers by students, teachers, or groups: "chewing gum, soda waters, and water ices" as defined in 7 C.F.R. sec. 210; "candy" which means any item that contains more than forty percent (40%) added sugar by weight; any juice or juice product that contains less than thirty-five percent (35%) real juice; or other items, except seeds and nuts, that contain more than eight (8) grams of fat per serving.

(3) The sale or serving of any food or beverage item to students in competition with the School Breakfast Program or the National School Lunch Program shall be prohibited on the school campus during the school day until thirty (30) minutes after the close of the last lunch period.

(4) Each school is encouraged to provide at least six (6) grams of naturally occurring dietary fiber in school lunches, averaged over a period of one (1) week.

(5) A school may offer for a la carte sale on the cafeteria line only those items that meet the United States Department of Agriculture standard for a breakfast or lunch component, except that frozen desserts containing at least thirty-five percent (35%) fruit juice, yogurt, or low-fat dairy products may also be offered for ala carte sale.

(6) "High schools," which means school configurations of grades nine (9) to twelve (12), ten (10) to twelve (12), and eleven (11) to twelve (12), may sell soda waters one-half (1/2) hour after the close of the last lunch serving period.

(7) Each school is encouraged to offer, serve, sell, or otherwise make water available to students.

(8) Nothing in this section shall be construed to prohibit or limit the sale of food items to teachers, administrators, or other adult school employees in a separate area that is not accessible to students.

SECTION 5. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) Each school district shall appoint a food service director who is responsible for the management and oversight of the food service program in the district, except two (2) or more contiguous districts may form one (1) "school food service area" and a school food service director shall be selected by the participating school superintendents to oversee the "school food service area."

(2) (a) Any person serving as a school food service director on the effective date of this Act and who does not hold the "school foodservice and nutrition specialist" credential or the Level 2 certificate issued by the American School Food Service Association shall obtain the appropriate credential by July 30, 2005.

(b) Any person appointed to serve as school food service director after the effective date of this Act who does not hold the "school foodservice and nutrition specialist" credential or the Level 2 certificate issued by the American School Food Service Association shall obtain the appropriate credential within three (3) years of his or her appointment.

(c) Ten (10) clock hours of the required continuing education for maintaining the appropriate certificate under this subsection shall be directly related to applied nutrition and healthy meal planning and preparation.

(3) School cafeteria managers shall annually receive at least two (2) hours of continuing education in applied nutrition and healthy meal planning and preparation.

HB 626, AN ACT relating to extended school services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour instructional days. A board of education may extend its term beyond the minimum term.

(2) The local board of education, upon recommendation of the local school district superintendent, shall adopt a school calendar for the upcoming school year that establishes the opening and closing dates of the school term, beginning and ending dates of each school month, instructional days, and days on which schools shall be dismissed. The local board may schedule days for breaks in the school calendar that shall not be counted as a part of the minimum school term.

(3) Any local board of education operating its schools on a year-round school program basis shall conform with administrative regulations promulgated and adopted by the Kentucky Board of Education upon the recommendation of the commissioner of education, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum instructional term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(4) (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of pupils pursuant to the requirements of KRS 156.095. At the discretion of the superintendent, one (1) day of professional development may be used for district-wide activities and for training that is mandated by federal or state law. The use of three (3) days shall be planned by each school council, except that the district is encouraged to provide technical assistance and leadership to school councils to maximize existing resources and to encourage shared planning.

(b) A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred eighty-five (185) days that a teacher shall be employed.

1. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.

2. No teacher or administrator shall be permitted to count participation in a professional development activity under the flexible schedule option unless the activity is related to the teacher's classroom assignment and content area, or the administrator's job requirements, or is required by the school improvement or consolidated plan, or is tied to the teacher's or the administrator's individual growth plan. The supervisor shall give prior approval and shall monitor compliance with the requirements of this paragraph. In the case of teachers, a professional development committee or the school council by council policy may be responsible for reviewing requests for approval.

(c) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.

(d) Each local board may use two (2) days for planning activities without the presence of pupils.

(e) Each local board may use the number of days deemed necessary for:

1. National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;

2. Local disaster which would endanger the health or safety of children; and

3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the commissioner of education.

(5) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt administrative regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (4)(e)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.

(6) (a) In setting the school calendar, school may be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings may be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the commissioner of education may designate alternate dates. If schools are scheduled to operate during days designated for the statewide

professional meeting, the school district shall permit teachers who are delegates to attend as compensated professional leave time and shall employ substitute teachers in their absence. The commissioner of education shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. School shall be closed on the day of a regular election, and that day may be used for professional development activities, professional meetings, or parent-teacher conferences.

(b) All schools shall be closed on the third Monday of January in observance of the birthday of Martin Luther King, Jr. Districts may:

1. Designate the day as one (1) of the four (4) holidays permitted under subsection (4)(c) of this section; or

2. Not include the day in the minimum school term specified in subsection (1) of this section.

(7) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(8) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts ***and shall include criteria by which the commissioner of education may approve a district's request for a waiver to use an alternative service delivery option, including providing services during the school day on a limited basis***. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the school day.

(9) Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section.

(10) Notwithstanding the provisions of KRS 158.060(3) and the provisions of subsection (1) of this section, a school district shall arrange bus schedules so that all buses arrive in sufficient time to provide breakfast prior to the instructional day. In the event of an unforeseen bus delay, the administrator of a school that participates in the Federal School Breakfast Program may authorize up to fifteen (15) minutes of the six (6) hour instructional day if necessary to provide the opportunity for children to eat breakfast not to exceed eight (8) times during the school year within a school building.

HB 637, AN ACT relating to the Kentucky Teachers' Retirement System and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 161.220 TO 161.716 IS CREATED TO READ AS FOLLOWS:

Effective July 1, 2002, any individual occupying a position on a part-time basis that requires certification or graduation from a four (4) year college or university as a condition of employment and any individual providing part-time or substitute teaching services that are the same or similar to those teaching services provided by certified, full-time teachers shall be a member of the Kentucky Teachers' Retirement System, according to the conditions set forth in this section, if the individual is employed by one (1) of the public boards, institutions, or agencies set forth in Section 3 of this Act. Members providing part-time and substitute services shall participate in the retirement system as follows:

(1) Members providing part-time and substitute services shall accrue service credit as provided under KRS 161.500 and be entitled to a retirement allowance upon meeting the service retirement conditions of KRS 161.600. The board of trustees shall adopt a methodology for accrediting service credit to these members on a pro rata basis. The methodology adopted by the board of trustees may be amended as necessary to ensure its actuarial soundness. The retirement allowance for members providing part-time and substitute services shall be calculated pursuant to Section 28 of this Act. Members providing part-time and substitute services who meet the service retirement conditions of KRS 161.600 may also be eligible to participate as approved by the board of trustees in the medical insurance program provided by the retirement system under Section 33 of this Act. Members providing part-time and substitute services shall make contributions to the Kentucky Teachers' Retirement System at the rate provided under Section 16 of this Act. A member who provides part-time or substitute services, or in the event of the death of the member, the member's estate or applicably designated beneficiary, will be entitled, within ninety (90) days of the posting of the annual report submitted by the member's employer, to a refund of contributions as permitted and limited by Section 11 of this Act.

(2) The board of trustees shall adopt eligibility conditions under which members providing part-time and substitute services may participate in the benefits provided under KRS 161.520, and Sections 22, 31, and 32 of this Act. The board of trustees may adopt eligibility conditions under which members providing part-time or substitute services may

participate in other benefits offered by the retirement system. All eligibility conditions adopted by the board of trustees pursuant to this subsection may be amended as necessary to ensure their actuarial soundness.

(3) In addition to the pro rata methodology adopted by the board of trustees under subsection (1) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding the accrual, retention, accreditation, and use of service credit that apply to members providing full-time services. In addition to the eligibility conditions set forth by the board of trustees under subsection (2) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding both the eligibility to participate and the extent of participation in any benefit offered under KRS 161.220 to 161.716 that apply to members providing full-time services.

(4) The board of trustees of the Teachers' Retirement System shall be responsible for final determination of membership eligibility and may direct employers to take whatever action that may be necessary to correct any error relating to membership.

(5) The provisions of this section are not subject to KRS 161.714.

SECTION 2. A NEW SECTION OF KRS 161.220 TO 161.716 IS CREATED TO READ AS FOLLOWS:

A court order awarding additional back salary to or reinstating a member as a result of employment in a position covered by the Kentucky Teachers' Retirement System shall entitle the member to additional salary or service credit, or both, under the following circumstances:

(1) Members shall make contributions to the Kentucky Teachers' Retirement System at the rate set forth in Section 16 of this Act and members' employers shall make contributions at the rate set forth in Section 20 of this Act, with interest accruing on all contributions at the rate of eight percent (8%) per annum from the end of each fiscal year that back salary or the reinstatement was ordered. Contributions, plus interest, shall be made for each year that back salary or reinstatement was ordered. No service or salary credit shall be credited to a member's account unless full contributions are paid to the Kentucky Teachers' Retirement System.

(2) The member may have court-ordered back salary credited to his or her account only to the extent that the member actually received payment for the back salary and only to the extent that the court-ordered back salary is within the salary scale that was available to the member in the covered position for the years that the back salary was awarded. Court-ordered back salary can be credited to the member's account only as permitted under subsections (9) and (10) of Section 3 of this Act.

(3) The member's employer ordered to pay back salary or to reinstate the member by a court of competent jurisdiction shall provide the retirement system with a breakdown of the back salary awarded to the member on a year-by-year basis.

(4) The calculations of the contributions and interest required to be paid for court-ordered back salary or reinstatement shall be provided by the retirement system to the member or the member's employer at the member's or employer's request. Requests for these calculations shall be made with at least two (2) weeks of advance notice to the retirement system to provide these calculations. The retirement system will calculate accrued interest as of the last day of the month during which payment of the full contributions are made.

(5) For purposes of this section, a settlement agreement that provides back salary or reinstatement, and is adopted by order or judgment of a court of competent jurisdiction or is referenced in an order dismissing the action as settled shall have the same effect as a court order adjudicating the matter. Orders entered by a government board or agency as a result of litigation conducted on an administrative hearing level shall be considered as court orders for the purposes of this section.

(6) Under no circumstances shall a member be entitled to service credit as a result of court-ordered reinstatement that is in violation of the provisions of Section 20 of this Act.

Section 3. KRS 161.220 is amended to read as follows:

As used in KRS *161.220*~~[161.230]~~ to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the commissioner of education, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any *full-time*~~[regular or special]~~ teacher~~[,]~~ or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

  (a) Local boards of education;

  (b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;

(c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The State Department of Education, ***the Education Professional Standards Board,*** other public education agencies as created by the General Assembly,~~[including the Education Professional Standards Board,]~~ and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) The Department for Adult Education and Literacy, except that the commissioner shall not be a member;

(h) The Department for Technical Education, except that the commissioner shall not be a member;

(i) The Department of Vocational Rehabilitation;

(j) The Kentucky Educational Collaborative for State Agency Children;

(k) The Governor's Scholars Program;

(l) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;

(m) Employees of the Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the Cabinet for Workforce Development, shall be members of the Teachers' Retirement System;

(n) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620; and

(o) Employees of the Office of General Counsel, the Office for Policy and Budget, the Office of Personnel Services, and the Office for Administrative Services within the Office of the Secretary of the Cabinet for Workforce Development and the commissioners of the Department for Adult Education and Literacy and the Department for Technical Education who were contributing to the Kentucky Teachers' Retirement System as of July 15, 2000;

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up ***member***~~[employee]~~ contributions pursuant to KRS 161.540(2), or the average of the five (5) years

of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up ***member***[~~employee~~] contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for ***members***[~~employees~~] of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 158.782 on or after July 1, 1996. ***Under no circumstances shall annual compensation include compensation that is earned by a member while on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section. In the event that federal law requires that a member continue membership in the retirement system even though the member is on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section, the member's annual compensation for retirement purposes shall be deemed to be the annual compensation, as limited by subsection (9) of this section, last earned by the member while still employed solely by and providing services directly to a public board, institution, or agency listed in subsection (4) of this section.*** The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) ***"Employ," and derivatives thereof, means relationships under which an individual provides services to an employer as an employee, as an independent contractor, as an employee of a third party, or under any other arrangement as long as the services provided to the employer are provided in a position that would otherwise be covered by the Kentucky Teachers' Retirement System and as long as the services are being provided to a public board, institution, or agency listed in subsection (4) of this section***"[~~Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28~~];

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up ***member***[~~employee~~] contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. ***The retirement plan year is concurrent with this fiscal year.*** A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up ***member***[~~employee~~] contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;

(21) ***"Full-time" means employment in a position that***[~~Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which~~] requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a ***fiscal year***[~~daily or weekly~~] basis;[~~ and~~]

(22) "Full actuarial cost," when used to determine the payment that a member must pay for service credit means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in KRS 161.400***; and***

(23) "Last annual compensation" means the annual compensation, as defined by subsection (10) of Section 3 of this Act and as limited by subsection (9) of Section 3 of this Act, earned by the member during the twelve (12) months immediately preceding the member's effective retirement date, excluding bonuses, retirement incentives, payments for accumulated sick, annual, personal and compensatory leave, and any other lump-sum payment.

Section 4. KRS 161.250 is amended to read as follows:

(1) The general administration and management of the retirement system, and the responsibility for its proper operation and for making effective provisions of KRS 161.155 and 161.220 to 161.714 are vested in a board of trustees to be known as the "Board of Trustees of the Teachers' Retirement System of the State of Kentucky." The board of trustees shall consist of the chief state school officer, the State Treasurer, and seven (7) other trustees elected as provided in KRS 161.260. Four (4) of the elective trustees shall be members of the retirement system, to be known as teacher trustees, two (2) shall be persons who are not members of the teaching profession, to be known as the lay trustees, and one (1) shall be an annuitant of the retirement system to be known as the retired teacher trustee. One (1) teacher trustee shall be elected annually for a four-year term. The retired teacher trustee shall be elected every four (4) years. The chief state school officer and the State Treasurer are considered ex-officio members of the board of trustees and may designate in writing a person to represent them at board meetings.

(2) A member, retired member, or designated beneficiary may appeal the retirement system's decisions that materially affect the amount of service retirement allowance, amount of service credit, eligibility for service retirement or eligibility for survivorship benefits to which that member, retired member, or designated beneficiary claims to be entitled. All appeals must be in writing and filed with the retirement system within thirty (30) days of the claimant's first notice of the retirement system's decision. For purposes of this section, notice shall be complete and effective upon the date of mailing of the retirement system's decision to the claimant at the claimant's last known address. Failure by the claimant to file a written appeal with the retirement system within the thirty (30) day period shall result in the decision of the retirement system becoming permanent with the effect of a final and unappealable order. Appeals may include a request for an administrative hearing which shall be conducted in accordance with the provisions of KRS Chapter 13B. ***The board of trustees may establish an appeals committee whose members shall be appointed by the chairperson and who shall have the authority to act upon the report and recommendation of the hearing officer by issuing a final order on behalf of the full board of trustees.*** A member, retired member, or designated beneficiary who has filed a timely, written appeal of a decision of the retirement system may, following the administrative hearing and issuance of the final order by the board of trustees, appeal the final order of the board of trustees to the Franklin Circuit Court in accordance with the provisions of KRS Chapter 13B.

Section 5. KRS 161.310 is amended to read as follows:

(1) The board of trustees shall from time to time promulgate administrative regulations for the administration of the funds of the retirement system and for the transaction of business.

(2) All rules, regulations, or policies adopted by school districts, universities, or other employers participating in the Teachers' Retirement System that pertain to the retirement system shall conform to this chapter.

(3) All rules, regulations, or policies adopted***, or decisions made,*** by school districts, universities, or other employers participating in the Teachers' Retirement System that pertain to retirement incentives for members as defined in KRS 161.220(4) shall contain provisions for the school district, university, or other employer to make full payment to the retirement system at the time a member retires for all actuarial obligations that occur to the retirement system as a result of retirement incentive payments. This subsection shall not apply to retirement incentive plans adopted by local boards of education prior to December 31, 1997, and to those employees of local school districts who retired on or before July 1, 1998.

Section 6. KRS 161.340 is amended to read as follows:

(1) The board of trustees shall elect from its membership a chairperson and a vice chairperson on an annual basis as prescribed by the administrative regulations of the board of trustees. The board of trustees shall employ an executive secretary by means of a contract not to exceed a period of four (4) years and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapters 18A, 45A, 56, and KRS 64.640. The executive secretary shall be the chief administrative officer of the board. The executive secretary, at the time of employment, shall be a graduate of a four (4) year college or university, and shall possess qualifications as the board of trustees may require. The executive secretary shall not have held by appointment or election an elective public office within the five (5) year period next preceding the date of employment.

(2) The board shall employ clerical, administrative, and other personnel as are required to transact the business of the retirement system. The compensation of all persons employed by the board shall be paid at the rates and in amounts as the board approves. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and the control of determining and maintaining an adequate complement of employees in the system shall be under the exclusive jurisdiction of the board of trustees.

(3) The board shall contract for actuarial, auditing, ***legal,*** medical, investment counseling, and other professional or technical services as are required to carry out the obligations of the board in accordance with the provisions of this chapter without limitations, including KRS Chapters ***12, 13B,*** 56, 57, ***45,*** and 45A, and shall provide for legal counsel and other legal services as may be required in defense of trustees, officers, and employees of the system who may be subjected to civil action arising from the performance of their legally assigned duties if counsel and services are not provided by the Attorney General.

(4) The board shall require the trustees, executive secretary, and employees it determines proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.

(5) The board of trustees may expend funds from the expense fund as necessary to insure the trustees, employees, and officials of the Teachers' Retirement System against any liability arising out of an act or omission committed in the scope and course of performing legal duties.

(6) Notwithstanding any statute to the contrary, employees shall not be considered legislative agents as defined in KRS 6.611.

Section 7. KRS 161.400 is amended to read as follows:

(1) The board of trustees shall designate as actuary a competent person who shall be a fellow of the Conference of ***Consulting*** Actuaries~~[in Public Practice]~~ or a member of the American Academy of Actuaries. He shall be the technical adviser of the board on matters regarding the operation of the funds of the system and shall perform such other duties as are required in connection therewith. At least once in each six (6) year period after the first year of operation of the system, the actuary shall make an actuarial investigation into the actuarial assumptions used, including, but not limited to, mortality, ***investment rate of return***~~[earnable interest]~~, and service and compensation of the members and beneficiaries of the retirement system; ***and*** make a valuation of the assets and liabilities of the funds of the system~~[; and recommend to the board of trustees such changes as may be deemed necessary to keep the retirement system on a sound financial basis]~~. ***At least annually the actuary shall make an actuarial valuation of the retirement system. The valuation shall include a description of the actuarial assumptions used, and the assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience.*** On the basis of the results of ***the valuations***~~[such investigations]~~, the board of trustees shall make necessary changes in the retirement system within the provisions of law and shall recommend the contributions payable by the state within the limits specified in KRS 161.550.~~[At least once in each two (2) year period the actuary shall make an actuarial valuation of the retirement system. The valuation shall include a description of the actuarial assumptions used, and such assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience.]~~

(2) Actuarial factors and actuarial cost factor tables in use by the retirement system for all purposes shall be determined by the actuary of the retirement system and approved by the board of trustees by resolution and implemented without the necessity of an administrative regulation. The assets of the system shall be valued at market value, or at a modified market value determined by the board to be a prudent measure of asset value. Effective July 1, 1992, the spread between investment and salary assumptions shall be reviewed and adjusted at the time of actuarial valuation, based upon the most recent five (5) year experience of the system.

(3) A copy of each actuarial investigation and valuation shall be forwarded to the Legislative Research Commission no later than ten (10) days after receipt by the board.

Section 8. KRS 161.420 is amended to read as follows:

All of the assets of the retirement system are for the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system. The board of trustees shall be the trustee of all funds of the system and shall have full power and responsibility for administering the funds. It is hereby declared that the restrictions and rights provided herein shall not be subject to reduction or impairment by alteration, amendment, or repeal. All the assets of the retirement system shall be credited according to the purpose for which they are held to one (1) of the following funds:

(1) The expense fund shall consist of the funds set aside from year to year by the board of trustees to defray the expenses of the administration of the retirement system. Each fiscal year an amount not greater than four percent (4%) of the ***dividends and interest*** income earned from investments during the immediate past fiscal year shall be set aside into the expense fund or expended for the administration of the retirement system;

(2) The teachers' savings fund shall consist of the contributions paid by members of the retirement system into this fund and regular interest assigned by the board of trustees from the guarantee fund. ***A member may not borrow any amount of his or her accumulated contributions to this fund, or any interest earned thereon.*** The accumulated contributions of a member returned to him upon his withdrawal or paid to his estate or designated beneficiary in the event of his death shall be paid from the teachers' savings fund. Any accumulated contributions forfeited by a failure of a teacher or his estate to claim these contributions shall be transferred from the teachers' savings fund to the guarantee fund. The accumulated contributions of a member shall be transferred from the teachers' savings fund to the allowance reserve fund in the event of

retirement by reason of service or disability;

(3) The state accumulation fund shall consist of funds appropriated by the state for the purpose of providing annuities, survivor benefits, and death benefits, including any sums appropriated for meeting unfunded liabilities, together with regular interest assigned by the board of trustees from the guarantee fund. At the time of retirement or death of a member there shall be transferred from the state accumulation fund to the allowance reserve fund an amount which together with the sum transferred from the teachers' savings fund will be sufficient to provide the member a retirement allowance and provide for benefits under KRS 161.520, 161.525, and 161.655;

(4) The allowance reserve fund shall be the fund from which shall be paid all retirement allowances and benefits provided under KRS 161.520, 161.525, and 161.655. In addition, whenever a change in the status of a member results in an obligation on this fund, there shall be transferred to this fund from the teachers' savings fund, and the state accumulation fund, the amounts as may be held in those funds for the account or benefit of the member;

(5) The medical insurance fund shall consist of amounts accumulated for the purpose of providing benefits as provided in KRS 161.675. One and five tenths percent (1.5%) of the gross annual payroll of all members shall be deposited to this fund. One-half (1/2) of this amount shall derive from member contributions and one-half (1/2) from a state appropriation. The board of trustees may allocate the three and twenty-five hundredths percent (3.25%) of the total salaries of active members that the state appropriates annually as provided under KRS 161.550. ***The medical insurance fund shall receive all interest income from the investments of the fund.*** All claims for benefits under KRS 161.675 shall be paid from this fund. Any amounts not required to meet current costs shall be maintained as a reserve for these benefits; and

(6) The guarantee fund shall be maintained to facilitate the crediting of uniform interest on the amounts of the other funds, except the expense fund, to finance operating expenses directly related to investment management services, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. All income, interest, and dividends derived from the authorized deposits and investments shall be paid into the guarantee fund. Any funds received from gifts and bequests, which the board is hereby authorized to accept and expend without limitation in a manner either expressed by the donor or deemed to be in the best interest of the membership, shall be credited to the guarantee fund. Any funds transferred from the teachers' savings fund by reason of lack of claimant or because of a surplus in any fund and any other moneys whose disposition is not otherwise provided for, shall also be credited to the guarantee fund. The interest allowed by the board of trustees to each of the other funds shall be paid to these funds from the guarantee fund. Any deficit occurring in any fund that would not be automatically covered shall be met by the payments from the guarantee fund to that fund. The board of trustees may, at any time during a fiscal year, transfer from the guarantee fund to the medical insurance fund an amount not to exceed four percent (4%) of the income earned from investments during the immediate past year.

(7) The school employee annuity fund shall consist of those funds voluntarily contributed under the provisions of section 403(b) of the Internal Revenue Code by a retired member of the Teachers' Retirement System with accounts that existed on or after July 1, 1996. The contributions shall not be picked up as provided in KRS 161.540(2). Separate member accounts shall be maintained for each member. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to manage this program.

(8) The supplemental retirement benefit fund shall consist of those funds contributed by~~[the member and]~~ the employer for the purpose of constituting a qualified government excess benefit plan as described in Section 415 of the Internal Revenue Code for accounts that existed on or after July 1, 1996.~~[The contributions shall not be picked up as provided in KRS 161.540(2). Separate member accounts shall be maintained for each member.]~~ The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to administer this program.

(9) The defined contribution fund shall consist of those funds contributed by retired members who have been approved by the retirement system for full-time reemployment in a position covered by the retirement system and contributions made by the employer for the purpose of providing separate retirement allowances for periods of reemployment. Separate member accounts shall be maintained for each member. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to administer this program. The contributions shall not be picked up as provided in KRS 161.540(2).

(10) The life insurance benefit fund shall consist of amounts accumulated for the purpose of providing benefits provided under Section 30 of this Act. The board of trustees may allocate to this fund a percentage of the employer and state contributions as provided under Section 20 of this Act. The allocation to this fund will be in an amount that the actuary determines necessary to fund the obligation of providing the benefits provided under Section 30 of this Act.

Section 9. KRS 161.430 is amended to read as follows:

(1) The board of trustees shall be the trustee of the funds of the retirement system and shall have full power and responsibility for the purchase, sale, exchange, transfer, or other disposition of the investments and moneys of the retirement system. The board shall, by administrative regulation, establish investment policies and procedures to carry out their responsibilities. The board shall employ experienced competent investment counselors to advise it on all matters pertaining to investment, except the board may employ qualified investment personnel to advise it on investment matters not to exceed fifty percent (50%) of the book value of the system's assets. ***All individuals associated with the investment and management of retirement system assets, whether contracted investment advisors or staff employees, shall adhere to "The Code of Ethics" and "The Standards of Professional Conduct" promulgated by the Association for Investment Management***

and Research. Effective July 1, 1991, no investment counselor shall manage more than forty percent (40%) of the funds of the retirement system. The board may appoint an investment committee consisting of the executive secretary and two (2) trustees to act for the board in all matters of investment, subject to the approval of the board of trustees. The board of trustees, in keeping with their responsibilities as trustees and wherever consistent with their fiduciary responsibilities, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth. Toward this end, the board shall develop procedures for informing the business community of the potential for in-state investments by the retirement fund, accepting and evaluating applications for the in-state investment of funds, and working with members of the business community in executing in-state investments which are consistent with the board's fiduciary responsibilities. The board shall include in the criteria it uses to evaluate in-state investments their potential for creating new employment opportunities and adding to the total job pool in Kentucky. The board may cooperate with the board of trustees of Kentucky Retirement Systems in developing its program and procedures, and shall report to the Legislative Research Commission annually on its progress in placing in-state investments. The first report shall be submitted by October 1, 1991, and subsequent reports shall be submitted by October 1 of each year thereafter. The report shall include the number of applications for in-state investment received, the nature of the investments proposed, the amount requested, the amount invested, and the percentage of applications which resulted in investments.

(2) The board members and investment counselor shall discharge their duties with respect to the assets of the system solely in the interests of the active contributing members and annuitants and:

(a) For the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system;

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims;

(c) By diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(d) In accordance with the laws, administrative regulations, and other instruments governing the system.

(3) (a) In choosing and contracting for professional investment management services the board must do so prudently and in the interest of the members and annuitants. Any contract that the board makes with an investment counselor shall set forth policies and guidelines of the board with reference to standard rating services and specific criteria for determining the quality of investments. Expenses directly related to investment management services shall be financed from the guarantee fund in amounts approved by the board.

(b) An investment counselor appointed under this section shall acknowledge in writing his fiduciary responsibilities to the fund. To be eligible for appointment, an investment counselor must be:

1. Registered under the Federal Investment Advisors Act of 1940; or
2. A bank as defined by that Act; or
3. An insurance company qualified to perform investment services under the laws of more than one (1) state.

(4) No investment or disbursement of funds shall be made unless authorized by the board of trustees, except that the board, in order to ensure timely market transactions, shall establish investment guidelines, by administrative regulation, and may permit its staff and investment counselors employed pursuant to this section to execute purchases and sales of investment instruments within those guidelines without prior board approval.

Section 10. KRS 161.440 is amended to read as follows:

At the end of each fiscal year the board of trustees shall assign from the guarantee fund interest at the rate of three percent (3%) to the teachers' savings fund, the state accumulation fund, and the allowance reserve fund[~~, and, effective July 1, 1978, interest at a rate of interest not to exceed the average yield on fixed income security investments for the immediate past year to the medical insurance fund~~]. The amounts so allowed shall be due and payable to the funds and shall be annually credited thereto by the board of trustees from interest and other earnings on money of the retirement system.

Section 11. KRS 161.470 is amended to read as follows:

(1) The membership of the retirement system shall consist of all new members, all present teachers, and all persons participating under the retirement system as of June 30, 1986, except as provided in Acts 1938 (1st Ex. Sess.), Ch. 1, paragraph 29. The board of trustees of the Teachers' Retirement System shall be responsible for final determination of membership eligibility and may direct employers to take whatever action that may be necessary to correct any error relating to membership.

(2) Service credit shall be forfeited upon withdrawal. If a member again enters service it shall be as a new member, except that any teacher who withdraws by claiming his deposits may repay the system the amount withdrawn plus interest and reestablish his service credit as provided in subsection (3) of this section.

(3) Effective July 1, 1988, and thereafter, an active contributing member of the retirement system with contributing service equal to one (1) year may regain service credit by depositing in the teachers' savings fund the amount withdrawn with

interest at the rate to be set by the board of trustees, and computed from the first of the month of withdrawal and including the month of redeposit.

(4) Effective July 1, 1974, any active contributing member with at least two (2) years of contributing service credit who declined membership as provided in Acts 1938 (1st Ex. Sess.), Ch. 1, paragraph 29, may secure service credit for prior service, and for any subsequent service prior to date of membership, by depositing in the teachers' savings fund contributions for each year of subsequent service prior to date of membership, with interest at the rate of eight percent (8%) compounded annually to the date of deposit.

(5) Membership in the retirement system shall be terminated:

(a) By retirement for service;

(b) By death;

(c) By withdrawal of the member's accumulated contributions;

(d) When a member, having less than five (5) years of Kentucky service is absent from service for more than three (3) consecutive years; or

(e) For persons hired on or after August 1, 2000, when a member is convicted, in any state or federal court of competent jurisdiction, of a felony related to his employment as provided in subparagraphs 1. and 2. of this paragraph.

1. Notwithstanding any provision of law to the contrary, a member hired on or after August 1, 2000, who is convicted, in any state or federal court of competent jurisdiction, of a felony related to his employment shall forfeit rights and benefits earned under the retirement system, except for the return of his accumulated contributions and interest credited on those contributions.

2. The payment of retirement benefits ordered forfeited shall be stayed pending any appeal of the conviction. If the conviction is reversed on final judgment, no retirement benefits shall be forfeited.

Except for paragraph (e) of this subsection, upon termination of member accounts under this subsection, funds in the account shall be transferred to the guarantee fund. Inactive members may apply for refunds of these funds at any time. The terminated service shall be reinstated, if not withdrawn by the member, in the event that the member returns to active contributing service.

(6) In case of withdrawal from service prior to eligibility for retirement, the board of trustees shall on request of the member return all of his accumulated contributions with regular interest, including any payments made by the member to the state accumulation fund, but the member shall have no claim on any contributions made by the state with a view to his retirement or to contributions made to the medical insurance fund. If the member is eligible for an immediate service retirement allowance as provided in KRS 161.600, no withdrawal and refund shall be permitted, unless the allowance would prohibit the member from qualifying for Social Security benefits or the member elects to withdraw part or all of his service for the purpose of obtaining credit in another retirement plan. Requests for refund of contributions by the member must be filed on forms prescribed by the Teachers' Retirement System and the employer shall be financially responsible for all information that is certified on the prescribed form. ***A member may not withdraw any part of his or her contributions to the retirement system except as provided by this subsection.***

(7) Except as provided in KRS 161.520 and 161.525, in case of death prior to retirement, the board of trustees shall pay to the estate of the deceased member***, unless a beneficiary was otherwise applicably designated by the deceased member, then to the beneficiary,***[~~or to his assigns~~] all of his accumulated contributions, with regular interest, including any payments made by the member to the state accumulation fund, but the estate or ***beneficiary***[~~assigns~~] shall have no claim on any contributions made by the state with a view to the retirement of the member or to contributions made to the medical insurance fund.

(8) Any active contributing member of the Kentucky Employees Retirement System, the County Employees Retirement System, the State Police Retirement System, or the Judicial Retirement System may use service, under that retirement system for the purpose of meeting the service requirement of subsections (3) and (4) of this section.

Section 12. KRS 161.480 is amended to read as follows:

Each person, upon becoming a member of the retirement system, shall file a detailed statement as required by the board of trustees and shall designate a ***primary*** beneficiary to receive any benefits accruing from the death of the member. ***A contingent beneficiary may be designated in addition to the primary beneficiary. Any beneficiary designation made by the member***[~~This designation~~] shall remain in effect until changed by the member on forms prescribed by the Kentucky Teachers' Retirement System, except ***in the event of***[~~that~~] subsequent marriage or divorce***. Subsequent marriage*** by the member shall void the ***primary beneficiary*** designation and the spouse of the member at death shall be considered as ***the primary*** beneficiary[~~ in the event of subsequent marriage, and the estate of the member shall be considered as beneficiary in the event of subsequent divorce~~], unless the member subsequent to marriage[~~ or divorce~~] designates another beneficiary. ***A final divorce decree shall terminate an ex-spouse's status as either primary or contingent beneficiary, unless subsequent to divorce the member redesignates the former spouse as primary or contingent beneficiary. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of a member's contributions to the retirement system as provided under subsection (7) of Section 11 of this Act and KRS 161.650, and for receipt of the life insurance benefit provided under Section 30 of this Act.*** The provisions of this section shall be retroactive as they relate to election of beneficiaries by members still in active status on the effective date of this section.

Section 13. KRS 161.507 is amended to read as follows:

(1) An active contributing member of the Teachers' Retirement System may receive service credit for active service rendered in the uniformed services of the Armed Forces of the United States, including the commissioned corps of the Public Health Service, subject to the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 and to administrative regulations promulgated by the board of trustees. Military service includes service in the uniformed services that occurs before the employment of a member in a position covered by the retirement system or where a member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services. Service in the uniformed services also includes uniformed service that occurs after employment in a position covered by the retirement system where the member has given advance written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment. Military service may be credited only if discharge was honorable or was not terminated upon the occurrence of any of the events listed in 38 U.S.C. sec. 4304. Service shall be considered as Kentucky teaching service, except that service may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1) unless the service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returned directly from uniformed services to covered employment. A maximum of six (6) years of military service may be credited, but in no case a greater number of years than the actual years of contributing service in Kentucky.

(2) No credit shall be granted for military service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

(3) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on this military service, may not receive credit for any military service in the Teachers' Retirement System. This subsection shall apply to service presented for credit on July 1, 1975, and after this date.

(4) (a) A member receiving retirement credit for active duty in the armed services of the United States prior to employment in a position covered by the retirement system or where the member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services shall ***pay to the retirement system the full actuarial cost of the service credit purchased as provided under subsection (22) of Section 3 of this Act***~~[contribute to the retirement system an amount equal to thirty-five percent (35%) of the actuarial cost for each year of service for which the member is receiving credit]~~. Two percent (2%) of the~~[thirty-five percent (35%)]~~ required payment shall be allocated to the medical insurance fund. These contributions shall not be picked up, as described in KRS 161.540(2). In purchasing retirement credit for active duty in the armed services, the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting this service.

(b) If military service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment, the member shall contribute the regular member contribution required by KRS 161.540. The member may make the payment of delayed contributions in a lump sum payment or in installments not to exceed five (5) years beginning with the member's date of reemployment. Interest at the rate of eight percent (8%) per annum shall be charged for delayed contributions beginning with the member's date of reemployment until paid.

(5) An active contributing member of the Teachers' Retirement System may receive service credit for service in the military reserves of the United States or the National Guard. The member may purchase one (1) month of service for each six (6) months of service in the reserves or the National Guard. Notwithstanding any other statute, regulation, or policy to the contrary, the system shall provide a member, upon request, the estimated actuarial cost of the National Guard or military reserves service purchase based upon the information available at the time of the request. The member shall be entitled to enter into a contract with the system at the time of the request to purchase the National Guard or military reserve service by paying to the system the estimated actuarial cost, either by installments or in lump sum. The member shall pay the full actuarial cost of this service in the military reserves or the National Guard as provided in KRS 161.220(22). Service in the military reserves or the National Guard shall be treated as service earned prior to participation in the system and shall not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). The payment shall not be picked up by the employer, as described in KRS 161.540(2).

Section 14. KRS 161.515 is amended to read as follows:

(1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position, which would be covered if in Kentucky.

(2) (a) ***An active contributing member***~~[A member in active status]~~ who has been a contributing member of the retirement system for at least one (1) full scholastic year subsequent to the latest out-of-state service, may present for credit service rendered out of state, not to exceed ten (10) years actually taught as a certified or licensed teacher. With the exception of university faculty members, all members who elect to purchase this service shall pay to the retirement

system an amount equal to the current member contribution rate based on the first Kentucky salary of the member subsequent to the out-of-state service, provided this service was rendered after ***June 30, 1983***[~~January 1, 1984~~]. In the event this service was rendered prior to ***July 1, 1983***[~~January 1, 1984~~], the contribution rate shall be seven and eighty-four hundredths percent (7.84%). University faculty members shall pay on a contribution rate of seven and eighty-four hundredths percent (7.84%) based on the first Kentucky salary subsequent to the out-of-state service, regardless of when the service was rendered. ***Members shall pay to the retirement system the employer contribution at the rates set forth in Section 20 of this Act.*** In addition, all members shall pay interest on the contributions for this service at a rate to be set by the board of trustees on each annual contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. The payments shall not be picked up as described in KRS 161.540(2). For each year of which the retirement system shall accept the contribution and interest, one (1) year of service credit shall be given. This credit may not be used to meet the service requirements of KRS 161.525, 161.600, or 161.661, except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds;

(b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the Teachers' Retirement System of the State of Kentucky, may present this service for credit in the retirement system on the same basis as provided above for out-of-state service credit; however, no service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by a public institution or governmental agency. This service when added to service credited under subsection (2)(a) of this section shall not exceed a total of ten (10) years' service credit; and

(c) A member having service referred to in subsection (2)(a) or (2)(b) of this section may elect to use this service for meeting the requirements of KRS 161.600(1)(c) by making an additional contribution to the state accumulation fund equal to a member contribution rate of eight percent (8%) for each year so used. These payments shall not be picked up as described in KRS 161.540(2). The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.

(3) Members entering the Teachers' Retirement System for the first time, July 1, 1976, and after this date, shall not receive credit for service defined in subsections (2)(a) or (2)(b) of this section in excess of one (1) year of credit for each two (2) years of Kentucky service in a covered position or ten (10) years, whichever is the lesser number.

(4) A member, having completed service as a volunteer in the Kentucky Peace Corps created by KRS 154.01-720, may purchase service credit for the time served in the corps on the same basis as provided in this section for the purchase of out-of-state service credit. A member, having completed service as a federal Peace Corps volunteer, may purchase up to two (2) years of service credit for time served in the Peace Corps on the same basis as provided in this section for the purchase of out-of-state service credit.

Section 15. KRS 161.522 is amended to read as follows:

Upon the death of a member retired for disability who had a minimum of twenty-seven (27) years of service at the time of death, except as provided in KRS 161.661(6), the spouse, if named as the beneficiary of the member's account, shall be entitled to elect, in lieu of a refund of the member's account, an annuity actuarially equivalent to the annuity that would have been paid to the deceased member had retirement for service been effective on the day immediately preceding the member's death. In selecting this right, the spouse shall be limited to selecting an option providing a straight life annuity with refundable balance or a term certain option. There shall be a monthly minimum allowance of three hundred dollars ($300) as the basic straight life annuity. This section applies to surviving spouses of members who were receiving benefit payments under KRS 161.520 as of June 30, 1988, and to surviving spouses of members who die on or after July 1, 1984***, except that the member shall have been retired for disability with a minimum of thirty (30) years of service if either of these two (2) conditions were met prior to July 1, 1990***.

Section 16. KRS 161.540 is amended to read as follows:

(1) Effective July 1, 1988, each member shall contribute to the retirement system nine and eight hundred fifty-five thousandths percent (9.855%) of annual compensation, except that university faculty members shall contribute eight and three hundred seventy-five thousandths percent (8.375%) of annual compensation. Payments authorized by statute that are made to retiring members for not more than sixty (60) days of unused accrued annual leave shall be considered as part of the member's annual compensation, and shall be used only for the member's final year of active service. The contribution of members shall not exceed these applicable percentages on annual compensation. When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance. In the event a member is awarded a court-ordered back salary payment the employer shall deduct and remit the member contribution on the salary payment, plus interest to be paid by the employer, to the retirement system unless otherwise specified by the court order.

(2) Each public board, institution, or agency, listed in KRS 161.220(4) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the ***member***[~~employee~~] contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer

contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). The picked-up ***member***~~[employee]~~ contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the ***member***~~[employee]~~ contribution, and the picked-up ***member***~~[employee]~~ contribution shall be in lieu of ***a member***~~[an employee]~~ contribution. Each employer shall pay these picked-up ***member***~~[employee]~~ contributions from the same source of funds which is used to pay earnings to the ***member***~~[employee]~~. The ***member***~~[employee]~~ shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. ***Member***~~[Employee]~~ contributions picked-up after August 1, 1982, shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as ***member***~~[employee]~~ contributions made prior to August 1, 1982.

Section 17. KRS 161.545 is amended to read as follows:

(1) Members may make contributions and receive service credit for substitute, part-time, or any service other than regular full-time teaching as provided in the administrative regulations of the board of trustees ***if contributions were not otherwise made as a result of the service***. Members placed on leave of absence may make contributions and receive service credit for this leave only if contributions are made by the end of the fiscal year next succeeding the year in which the leave was effective as provided in administrative regulations promulgated by the board of trustees. Contributions permitted after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).

(2) Active contributing members of the Teachers' Retirement System, or former members who are currently participating in a state-administered retirement system, who were granted leaves of absence since July 1, 1964, for reasons of health, child rearing, or to improve their educational qualifications, and did not qualify at the time of the leave of absence to make contributions to the retirement system for the leave of absence as provided in subsection (1) of this section, may obtain credit for the leave of absence under the following conditions:

(a) The leave of absence shall be verified by a copy of the board of education minutes which granted the leave of absence; and

(b) The member shall contribute the required percentage based on the salary received for the year immediately preceding the leave of absence plus interest at the rate of eight percent (8%) compounded annually from the beginning of the school year following the year of the leave of absence, and by depositing in the state accumulation fund an amount equal to this total.

(c) The member shall receive credit for no more than two (2) years under the provisions of this subsection.

(3)~~[Active contributing members who had breaks in their participation in the retirement system for reasons of health or for the purpose of obtaining Rank I status, a master's degree in education, or a doctorate degree in education and did not qualify at the time of the absence to obtain credit for the absence, may qualify to obtain credit for the absence under the following conditions:~~

~~(a) The period of a qualified absence shall be substantiated and verified in a manner required by the board of trustees;~~

~~(b) The member shall receive credit for no more than two (2) years of service under the provisions of this subsection;~~

~~(c) The member shall contribute the required percentage based on the salary received the year immediately preceding the qualified absence plus interest at the rate of eight percent (8%) compounded annually from the beginning of the school year following the year of the absence, and by depositing an amount equal to this total in the state accumulation fund; and~~

~~(d) Credit for service obtained under this subsection shall be purchased prior to July 1, 1997.~~

~~(4)]~~ Contributions permitted under this section after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).

Section 18. KRS 161.5461 is amended to read as follows:

(1) Any active contributing member may purchase service credit as authorized under KRS Chapter 161 by rolling over funds from a previous plan~~[qualified under Section 401(a) or 401(k) of the Internal Revenue Code]~~ to the extent that rollovers are permitted by the rules set forth in the Internal Revenue Code. The rollovers may be made directly from a previous qualified plan or through a conduit individual retirement account as permitted by the rules set forth in the Internal Revenue Code.

(2) Any active contributing member may purchase service credit as authorized under KRS Chapter 161 by transferring funds directly from a retirement plan maintained by the Commonwealth of Kentucky~~[and qualified under Section 401(a) or 401(k) of the Internal Revenue Code,]~~ to the extent that transfers are permitted by the rules set forth in the Internal Revenue Code.

(3) The amount of any transfer or rollover purchase as permitted under subsections (1) and (2) of this section, excluding that portion credited to the medical insurance fund under KRS 161.420(5), shall be credited to the individual member's account and shall be considered accumulated contributions of the member.

Section 19. KRS 161.5465 is amended to read as follows:

On or after August 1, 1998, a member of the Teachers' Retirement System in active contributing status who has a minimum of twenty (20) years of service credit may purchase up to a maximum of five (5) years of service credit that is not otherwise purchasable under any of the provisions of KRS 161.230 to 161.716 and that meets the definition of nonqualified service as provided in Section 1526 of the Federal Taxpayer Relief Act of 1997. The member shall pay the full actuarial cost of the service credit as provided in KRS 161.220(22). The payment shall not be picked up by the employer as described in KRS 161.540(2), and the member's payment shall be credited to the member's contribution account and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by installment payments as provided in KRS 161.597. ***Notwithstanding any other statute to the contrary, the Kentucky Teachers' Retirement System shall recognize nonqualified service credit purchased with another retirement system only to the extent that the member had an equivalent number of full months of active employment in the position covered by the other retirement system during the period that the nonqualified service was purchased.***

Section 20. KRS 161.550 is amended to read as follows:

Beginning with July 1, each employer, except as provided under KRS 161.555, shall contribute annually to the retirement system a permanent amount equal to that contributed by~~[its employees who are]~~ members of the retirement system ***it employs*** plus an additional three and one-fourths percent (3.25%) of the total of salaries of~~[its employees who are]~~ members of the retirement system ***it employs*** to discharge the system's unfunded obligations with interest assumed by the state and to provide funding to the medical insurance fund as provided under KRS 161.420(5). Each employer shall remit the required employer contributions to the retirement system under the terms and conditions specified for member contributions under KRS 161.560. The state shall provide annual appropriations based upon estimated funds needed to meet the requirements of KRS 161.155; 161.507(4); 161.515; 161.545; ***Section 25 of this Act,*** 161.620(1), (3), (5), (6), and (7); ***Section 1 of this Act;*** and 161.553. In the event an annual appropriation is less than the amount of these requirements, the state shall make up the deficit in the next biennium budget appropriation to the retirement system. Employer contributions to the retirement system are for the exclusive purpose of providing benefits to members and annuitants and these contributions shall be considered deferred compensation to the members.

Section 21. KRS 161.553 is amended to read as follows:

(1) The cost of providing statutory benefit improvements for annuitants may be funded by annual appropriations from the state on an actuarial amortized basis over the lifetime of the annuitants. The schedules in subsections (1)(a), (1)(b), and (1)(c) of this section are the annual appropriations which shall be made by the state for benefit improvements approved in the respective fiscal years or bienniums prior to July 1, ***2004***~~[2002]~~:

(a)

Cost of Living Allowance	***2002-2003***~~[2000-2001]~~	Each Succeeding Fiscal Year
~~[1986-1988~~	~~$4,465,400~~	~~$2,331,300 in 2001-2002~~
~~1988-1990~~	~~$5,761,700~~	~~$5,761,700 through 2002-2003 and]~~ $2,972,700 in 2003-2004
1990-1992	$4,901,700	$4,901,700 through 2004-2005 and $2,486,800 in 2005-2006
1992-1994	$2,229,400	$2,229,400 through 2006-2007 and $1,125,700 in 2007-2008
1994-1996	$6,142,000	$6,142,000 through 2010-2011
1996-1998	$4,459,000	$4,459,000 through 2010-2011
1998-2000	$15,333,900	$15,333,900 through 2012-2013 and $7,938,600 through 2013-2014
2000-2002	***$12,511,400***~~[$2,311,500~~	~~$6,132,100 through 2001-2002 and]~~ $12,511,400 through 2014-2015 and $7,227,700 in 2015-2016
2002-2004	***$10,201,600***	***$21,405,700 through 2021-2022*** ***and*** ***$11,204,100 through 2022-2023***

(b)	Minimum Value ***2002-2003***[~~2000-2001~~] Annuities		Each Succeeding Fiscal Year
	[~~1986-1988~~	~~$1,227,000~~	~~$1,020,400 in 2001-2002~~]
	1988-1990	$1,718,200	[~~$1,718,200 through 2002-2003 and~~] $879,500 in 2003-2004
	1990-1992	$2,246,900	$2,246,900 through 2004-2005 and $1,232,100 in 2005-2006
	1992-1994	$2,217,700	$2,217,700 through 2006-2007
	1994-1996	$2,126,000	$2,126,000 through 2008-2009
2002-2004	***$1,348,100***		***$3,375,900 through 2016-2017*** ***and*** ***$2,027,800 through 2017-2018***

(c)	Sick Leave ***2002-2003***[~~2000-2001~~] Allowance		Each Succeeding Fiscal Year
	1998-2000 ***$4,660,300***	[~~$5,140,000~~]	***$4,660,300***[~~$5,140,000~~] through 2012-2013 and ***$2,425,900***[~~$2,905,600~~] through 2013-2014
	2000-2002 ***$6,167,100***	[~~$3,698,800~~]	***$6,167,100***[~~$7,886,400~~] through 2014-2015 and ***$3,579,100***[~~$4,187,600~~] in 2015-2016
	2002-2004	***$3,668,400***	***$7,636,700 through 2021-2022*** ***and*** ***$3,968,300 through 2022-2023***

(2) The present values of providing statutory cost-of-living increases for annuitants not included in subsection (1) of this section are to be assigned to the unfunded obligations of the retirement system and are identified as follows:

1986-1988	$34,689,893
1990-1992	$68,107,473
1992-1994	$15,749,976

Section 22. KRS 161.555 is amended to read as follows:

Each employer employing members of the Teachers' Retirement System in positions established under educational acts adopted by the federal Congress shall contribute to the Teachers' Retirement System an amount equal to ***the employer contribution provided under Section 20 of this Act***[~~that contributed by the members of that employer~~].

Section 23. KRS 161.560 is amended to read as follows:

(1) Each agency employing members of the retirement system shall deduct from the compensation of each member for each payroll period subsequent to the date the ***individual***[~~teacher~~] became a member, the percentage of his compensation due under the rates prescribed in KRS 161.540. No later than fifteen (15) days following the end of each payroll period, the agency shall forward all amounts deducted to the Teachers' Retirement System. The retirement system shall charge the employing agency interest at an annual rate not to exceed twelve percent (12%) for deductions not remitted within the specified fifteen (15) days. Payroll reports, contributions lists, and other data required by administrative regulation of the board of trustees shall be submitted. Employers shall submit an annual report, in compliance with requirements of the retirement system, of ***member***[~~teacher~~] contributions and periods employed to the retirement system no later than August 1 following the completion of each fiscal year. The retirement system may impose a penalty on the employer not to exceed one thousand dollars ($1,000) when the employer does not meet the August 1 reporting date. The deductions shall be made notwithstanding the fact that the salary as a result may be less than the minimum compensation provided by law. Every member shall be deemed to consent and agree to the deductions, and the deductions shall be considered as having been paid to the member. After August 1, 1982, ***member***[~~employee~~] contributions shall be picked up by the agency pursuant to KRS 161.540(2).

(2) If an employer fails to deduct the correct retirement contribution from a member's compensation, the member may make the contribution that should have been deducted by the employer and receive retirement credit for the payment. For correction of omitted member contributions that occur more than one (1) year after the year in which the error was made, the employer shall be responsible for paying interest to the retirement system at a rate of eight percent (8%) from the end of the year in which the service was performed to the date of payment.

Section 24. KRS 161.603 is amended to read as follows:

(1) Any member retired by reason of service may waive his annuity and return to ***full-time***[~~regular~~] employment in a position covered by the Teachers' Retirement System. The member shall receive no annuity payments while employed in a covered position, ***shall waive his or her medical insurance coverage with the Kentucky Teachers' Retirement System during the period of reemployment, and shall receive the medical insurance coverage that is generally offered by the member's active employer to the other members of the retirement system employed by the active employer. The member's***[~~but shall continue to be covered by the system's hospital and medical insurance program and his~~] estate ***or, if there is a beneficiary applicably designated by the member, then the beneficiary,*** shall continue to be eligible for ***life insurance***[~~death~~] benefits as provided in KRS 161.655. Service subsequent to retirement shall not be used to improve an annuity, except as provided in subsections (2) and (3) of this section.

(2) Any member who waives regular annuity benefits and returns to teaching or covered employment shall be entitled to make contributions on the salaries received for this service and have their retirement annuity recalculated as provided in the regular retirement formula in KRS 161.620(1) less any applicable actuarial discount applied to the original retirement allowance due to the election of a joint and last survivor option. Retirement option and beneficiary designation on original retirement shall not be altered by post-retirement employment nor shall dependents and spouses of the members become eligible for benefits under KRS 161.520, 161.525, and 161.661 because of post-retirement employment.

(3) When a member returns to full-time teaching or covered employment as provided in subsection (2) of this section, the employer is required to withhold and remit regular retirement contributions. The member must be employed full-time for at least one (1) consecutive contract year to be eligible to improve an annuity. The member will be returned to the annuity rolls on July 1 following completion of the contract year or on the first day of the month following the month of termination of service if full-time employment exceeds one (1) consecutive contract year. Any discounts applied at the time of the original retirement due to service or age may be reduced or eliminated due to additional employment if full-time employment is for one (1) contract consecutive year or longer.

(4) A member retired by reason of service who has been employed the equivalent of twenty-five (25) days or more during a school year under the provisions of KRS 161.605 may waive the member's retirement annuity and return to regular employment covered by the Teachers' Retirement System during that school year a maximum of one (1) time during any five (5) year period, beginning with that school year.

Section 25. KRS 161.605 is amended to read as follows:

Any member retired by reason of service may return to work in a position covered by the Kentucky Teachers' Retirement System and continue to receive his or her retirement allowance under the following conditions:

(1) ***Any member who is retired with thirty (30) or more years of service may return to work in a full-time or a part-time position covered by the Kentucky Teachers' Retirement System and earn up to a maximum of seventy-five percent (75%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is seventy-five percent (75%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, shall be considered. Members who were retired on or before June 30, 2002, shall be entitled to return to work under the provisions of this section as if they had retired with thirty (30) years of service. Service credit purchased under the provisions of Section 19 of this Act may not be used to meet the thirty (30) year requirement set forth in this subsection.***

(2) Any member who is retired with less than thirty (30) years of service after June 30, 2002, may return to work in a full-time or part-time position covered by the Kentucky Teachers' Retirement System and earn up to a maximum of sixty-five percent (65%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is sixty-five (65%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, shall be considered.

(3) Reemployment of a retired member under subsection (1) or (2) of this section in a full-time teaching or nonteaching position in a local school district shall be permitted only if the Department of Education certifies to the Kentucky Teachers' Retirement System that there are no other qualified applicants available to fill the teaching or nonteaching position. The Kentucky Department of Education may use any source considered reliable including but not limited to data provided by the Education Professional Standards Board and local education agencies to determine whether other qualified applicants are available to fill the teaching or nonteaching position. The Kentucky Department of Education shall promulgate administrative regulations to establish procedures to determine whether other qualified applicants are available to fill a teaching or nonteaching position and, if not, for filling the position with a retired member who will then be permitted to return to work in that position under subsection (1) or (2) of this section. The administrative

regulations shall assure that a retired member shall not be hired in a teaching or nonteaching position by a local school district until the superintendent of the school district assures the Department of Education that every reasonable effort has been made to recruit other qualified applicants for the position on an annual basis.

(4) Under this section, an employer may employ full-time a number of retired members not to exceed four percent (4%) of the membership actively employed full-time by that employer. The board of trustees may reduce this four percent (4%) cap upon recommendation of the retirement system's actuary if a reduction is necessary to maintain the actuarial soundness of the retirement system. For purposes of this subsection, "full-time" means the same as defined by subsection (21) of Section 3 of this Act. A local school district may exceed the quota established by this subsection by making an annual written request to the Kentucky Department of Education which the department may approve on a year-by-year basis if the statewide quota has not been met.

(5) A member returning to work in a full-time or part-time position under subsection (1) or (2) of this section will establish a second account with the retirement system that will be administered independently from and with no reciprocal impact with the member's original retirement account. A member returning to work under subsection (1) or (2) of this section shall make contributions to the retirement system at the rate provided under Section 16 of this Act. The second account shall independently meet the five (5) year vesting requirement as well as all other conditions set forth in KRS 161.600(1) before any retirement allowance is payable from this account. The retirement allowance accruing under this second account shall be calculated pursuant to subsection (1)(b) of Section 28 of this Act. This second account shall not entitle the member to a duplication of the benefits offered under Section 30 or 33 of this Act, nor shall this second account provide the benefits offered by KRS 161.520, 161.525, Section 31 of this Act, or Section 32 of this Act. A member returning to work under subsection (1) or (2) of this section shall waive his or her medical insurance with the Kentucky Teachers' Retirement System during the period of reemployment and shall receive the medical insurance coverage that is generally provided by the member's active employer to the other members of the retirement system that the active employer employs. If medical insurance coverage is not available from the employer, the Kentucky Teachers' Retirement System may provide coverage for the member. A member returning to work under subsection (1) or (2) of this section shall not be eligible to purchase service credit for any service provided after the member's effective date of retirement but prior to the date that the member returns to work. A member returning to work under subsection (1) or (2) of this section shall not be eligible to purchase service credit that the member would have otherwise been eligible to purchase prior to the member's initial retirement. A member who returns to work under subsection (1) or (2) of this section, or in the event of the death of the member, the member's estate or applicably designated beneficiary, shall be entitled, within ninety (90) days of the posting of the annual report submitted by the employer, to a refund of contributions as permitted and limited by Section 11 of this Act.

(6) The board of trustees may annually adjust the daily rate of a member's last annual compensation, for each year that the member has been retired for a full twelve (12) month period, by the percentage increase in the annual average of the consumer price index for all urban consumers for the calendar year preceding the adjustment as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%) annually. Failure to comply with the salary limitations set forth in subsections (1) and (2) of this section as may be adjusted by this subsection shall result in a reduction of the member's retirement allowance or any other benefit to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar that the member exceeds these salary limitations.

(7) A retired member returning to work under subsection (1) or (2) of this section shall have separated from service for a period of at least one (1) year if returning to work for the same employer on a full-time basis, and at least three (3) months if returning to work for a different employer on a full-time basis. A retired member returning to work under subsection (1) or (2) of this section on a part-time basis shall have separated from service for a period of at least three (3) months before returning to work for any employer. Failure to comply with these separation from service requirements voids a member's retirement and the member shall be required to return all the retirement benefits he or she received, with interest, for the period of time that the member returned to work without a sufficient separation from service.

(8) Members who retired on or before June 30, 2002 may, for the fiscal year concluding on June 30, 2003, be reemployed under the one hundred (100) day provisions of this section as they existed on June 30, 2002, except that members returning to work under those provisions shall make contributions to the Kentucky Teachers' Retirement System at the rate provided under Section 16 of this Act and members' employers shall make contributions to the Kentucky Teachers' Retirement System at the rates specified under Section 20 of this Act. Those members returning to work under the one hundred (100) day provisions of this section as they existed on June 30, 2002, shall further waive their medical insurance coverage with the retirement system during the period of reemployment and will instead receive the medical insurance coverage generally provided by their active employer to other members of the retirement system that the active employer employs. If medical insurance coverage is not available from the employer, the Kentucky Teachers' Retirement System may provide coverage for the member. Notwithstanding any other statute to the contrary, retired members returning to work shall under no circumstances be permitted to purchase as service credit service provided under the one hundred (100) day provisions of this section as they existed on June 30, 2002.[~~Retired members may perform substitute teaching in the public schools for the equivalent of one hundred (100) days in any one (1) school year and receive compensation based on a standard salary schedule adopted by a district for all substitute teachers without reduction in retirement annuities~~].

[~~(2) A retired member may be employed as a part-time or temporary teacher in the public schools for a period not to exceed the equivalent of one hundred (100) days in any one (1) school year.~~

~~(3) Retired members may be employed part time or temporarily in a nonteaching capacity in the public schools and receive compensation for this employment without reduction in retirement annuities, except that retired members may not be employed in excess of a one hundred (100) day period in any one (1) school year~~]

(9) The return to work limitations set forth in this section and Section 24 of this Act shall apply to retired members who are returning to work in the same position from which they retired, or a position substantially similar to the one from which they retired, or any position listed in KRS 161.220(4) which requires membership in the retirement system. Positions which generally require certification or graduation from a four (4) year college or university as a condition of employment which are created, or changed to remove the position from coverage under KRS 161.220(4) are also subject to the ***return to work limitations set forth in this section and Section 24 of this Act***[~~one hundred (100) day limitation in this subsection~~]. The board of trustees shall determine ***whether***[~~if~~] employment in a nonteaching position ***is subject to***[~~qualifies for an exemption under~~] this subsection.

(10) The provisions of subsections (1) to (8) of this section are not subject to KRS 161.714.

(11)[~~(4)~~] Members retired from an agency listed in KRS 161.220(4)(b) ***or (n)*** may be employed in a part-time teaching capacity by one (1) of the universities ***or community colleges*** participating in the Teachers' Retirement System, not to exceed the equivalent of twelve (12) teaching hours in any one (1) fiscal year. ***Members retired from an agency listed in subsection (4)(b) or (n) of Section 3 of this Act may be employed for a period not to exceed the equivalent of one hundred (100) days in any one (1) fiscal year in a part-time administrative or nonteaching capacity by one (1) of the universities or community colleges participating in the Teachers' Retirement System in a position that would otherwise be covered by the retirement system. None of these members shall be subject to the return to work provisions set forth in subsections (1) to (8) of this section.***

[~~(5)~~] Calculation of the number of days for part-time teaching, substitute teaching, or part-time employment in a nonteaching capacity under this section shall not exceed the ratio between a school year and the actual months of retirement for the member during that school year. The board of trustees by administrative regulation may establish fractional equivalents of a day of teaching service.

(12)[~~(6)~~] When a retired member returns to employment ***in***[~~as~~] a part-time ***teaching capacity***[~~teacher~~] or in a nonteaching capacity as provided in ***subsection (11)***[~~subsections (2), (3), and (4)~~] of this section, the employer shall contribute annually to the retirement system on the compensation paid to the retired member at rates determined by the retirement system actuary that reflect accrued liability for ***retired members who return to work under subsection (11) of this section***[~~nonuniversity and university members.~~

~~(7) The board of trustees shall provide for reemployment of retired members as full-time teachers or in a nonteaching capacity under the following conditions:~~

~~(a) A retired teacher or administrator may return to full-time teaching in a position that has been determined by the commissioner of education to be a critical shortage area as defined in KRS 156.106 and for which the person is certified. When the commissioner of education certifies to the retirement system that qualified applicants are not available to fill teaching or administrative positions in critical academic subject areas, grade levels, or geographic areas, local school districts may employ, as full-time employees, during a school fiscal year, up to a maximum of two (2) retired members, or one percent (1%) of the total active members of the retirement system in a school district, whichever is greater. Retired members who are reemployed in a full-time position covered by the retirement system shall be rehired on a one (1) year contract in a district other than the one from which they retired following an absence of at least three (3) months or in the same district from which they retired following an absence of at least one (1) year.~~

~~(b) Retired members reemployed under this subsection shall remain eligible to receive their retirement annuity.~~

~~(c) Retired members reemployed under this subsection shall waive their health insurance coverage with the retirement system during the period of reemployment and receive health insurance coverage that is provided to regular full-time employees of the district.~~

~~(d) Local school districts shall make annual payments to the retirement system on the compensation paid to the reemployed retirees at rates determined by the retirement system's actuary that reflect accrued liability for nonuniversity members.~~

~~(e) Retirees who are reemployed under this provision shall make retirement contributions to the retirement system at rates specified under KRS 161.540 and the employer shall make contributions to the retirement system at rates specified under KRS 161.550. The member's entire contribution and a matching amount from the employer's contribution shall be placed in a separate defined contribution fund administered by the retirement system, with annual interest applied at the actuarially assumed rate. When the retiree's reemployment terminates, the total contributions with interest will be paid in a lump sum or on a monthly straight life basis to the retiree. If the member dies before retiring, the designated beneficiary shall receive a refund, and if there is a remaining balance at the death of the member after retirement, it shall be paid to the beneficiary designated by the member for this benefit.~~

~~(f) The provisions pertaining to the reemployment of retired members as full-time employees shall be granted by the board of trustees when it is deemed necessary to assist school districts in filling teaching or nonteaching positions in critical academic or geographic areas and when doing so would not create a significant negative impact on the funding status of the retirement system. The provisions of this subsection are optional with the board of trustees and shall not be covered under KRS 161.714~~].

Section 26. KRS 161.611 is amended to read as follows:

(1) The board of trustees is authorized to provide a supplemental retirement benefit plan for the sole purpose of enabling the employer to apply the same formula for determining benefits payable to all ***members of***[~~employees covered by~~] the retirement system ***employed by the employer***, whose benefits under the retirement system are limited by Section 415 of the Internal Revenue Code of 1986, as amended from time to time. This plan is intended to constitute a qualified governmental excess benefit plan as described in Section 415 of the Internal Revenue Code.

(2) The board of trustees shall administer this plan and have full discretionary fiduciary authority to determine all questions in connection with the plan. The board of trustees may adopt procedural rules and administrative regulations and may employ and rely on any legal counsel, actuaries, accountants, and agents as it deems advisable to assist in the administration of this plan.

(3) All members and retired former members in the retirement system shall be eligible to participate in this plan whenever their benefits under the retirement system would exceed the limitation on benefits imposed by Section 415 of the Internal Revenue Code.

(4) On or after the effective date of this plan, the employer shall pay to each eligible member in the retirement system who retires on or after that date and to each former member who retired before that date and his or her beneficiaries a supplemental pension benefit, equal to the amount by which the benefit that would have been payable under the retirement system, without regard to any provision therein incorporating the limitation on benefits imposed by Section 415 of the Internal Revenue Code, exceeds the benefit actually payable, taking into account the limitation imposed on the retirement system by Section 415 of the code. These supplemental pension benefits shall be computed and payable under the same terms and conditions and to the same person as the benefits payable to, or on account of, an eligible member under the retirement system.

(5) Benefits payable under this plan shall not be subject to the dollar limit applicable to eligible deferred compensation plans under Section 457 of the Internal Revenue Code, nor to the "substantial risk or forfeiture" rules of Section 457(f) of the code applicable to ineligible deferred compensation plans. In addition, benefits payable under this plan shall not be taken into account in determining whether any other plan of the employer is an eligible deferred compensation plan under Section 457 of the code.

(6) Funding of benefits payable under this plan shall be provided by the state, as employer, and shall be segregated from funds that are maintained by the retirement system for payment of the regular benefits provided by the retirement system. The employer may establish a grantor trust for payment of benefits provided under this plan, with the employer treated as "grantor" thereof for purposes of Section 677 of the Internal Revenue Code. The rights of any person to receive benefits under this plan are limited to those of a general creditor of the employer.

Section 27. KRS 161.615 is amended to read as follows:

(1) The board of trustees is authorized to implement a limited defined contribution plan for the sole purpose of providing retirement allowance payments for retired members who have been approved by the retirement system for full-time reemployment as provided in KRS 161.605.

(2) The defined contribution plan shall be administered separately from the regular benefits provided for members of the retirement system, except that the contributions to the plan shall be invested in the same manner as other contributions to the retirement system.

(3) ***The provisions of this section apply only to those retired members who were permitted to return to work under the critical shortage provisions of KRS 161.605(7) as they existed on June 30, 2002. The provisions of this section shall not apply to any retired member returning to work on or after July 1, 2002***[~~All retired members of the retirement system who are approved by the retirement system for full-time reemployment as provided in KRS 161.605 shall be eligible to participate in the plan~~].

(4) Separate member accounts shall be maintained for participants in this plan which shall reflect the annual contributions made to the participant's account based on the rates and interest levels specified in KRS 161.605.

(5) When the retiree's reemployment terminates, the total contributions and accrued interest in the participant's account will be paid in a lump sum payment or on an actuarial straight life monthly basis to the retiree. If the member dies prior to making application for a retirement allowance under this plan, the beneficiary designated by the participant for this plan shall receive a refund of the funds in the account. If there is a remaining balance in the account at the death of the participant after retirement from this plan, it shall be paid to the beneficiary designated by the participant for this benefit.

(6) Retired members shall be eligible to receive their retirement annuity when approved for reemployment and participation in this plan. Service as a reemployed retiree may not be used in any manner for credit under the regular retirement benefit plans provided by the retirement system.

Section 28. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1998, and thereafter, ***except as otherwise provided by this section,*** the annual allowance for each year of service shall be two percent (2%) of the final average salary for service performed prior to July 1, 1983, and two and one-half percent (2.5%) of the final average salary for service performed after July 1, 1983, for all members not employed by a state college or university. The annual retirement allowance for each year of service performed ***by members of***[~~at state colleges or universities that participate in~~] the Teachers' Retirement System ***who are members under the provisions of subsection (4)(b) or (n) of Section 3 of this Act*** shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section; and

(b) ***For individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2002, except those persons who become members under subsection (4)(b) or (n) of Section 3 of this Act, and who upon retirement have earned less than ten (10) full years of service credit, the retirement allowance shall be two percent (2%) of the member's final average salary for each year of service. For individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2002, except those persons who become members under subsection (4)(b) or (n) of Section 3 of this Act, and who upon retirement have earned at least ten (10) full years of service credit, the annual allowance for each year of service shall be two and one-half percent (2.5%) of the member's final average salary.***

(c) The board of trustees may approve for members who initially retire on or after July 1, 2004, except those persons who are members under subsection (4)(b) or (n) of Section 3 of this Act, a retirement allowance of three percent (3%) of the member's final average salary for each year of service credit earned in excess of thirty (30) years. This three percent (3%) factor shall be in lieu of the two and one-half percent (2.5%) factor provided for in paragraph (b) of this subsection for every year or fraction of a year of service in excess of thirty (30) years. Upon approval of this three percent (3%) retirement factor, the board of trustees may establish conditions of eligibility regarding the type of service credit that will qualify for meeting the requirements of this subsection. This subsection is optional with the board of trustees and shall not be subject to KRS 161.714.

(d) The retirement allowance of a member at retirement shall not exceed the member's last annual compensation or the member's final average salary, whichever is the greater amount.

(2) Effective July 1, ***2002***[~~1990~~], and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option[~~ who has been retired at least ten (10) months~~] shall be increased in the amount of one and one-half percent (1.5%)***, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase***.

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than ***four hundred dollars ($400) effective July 1, 2002, and not less than four hundred forty dollars ($440) effective July 1, 2003***[~~three hundred twenty-five dollars ($325) effective July 1, 2000, and three hundred thirty-five dollars ($335) effective July 1, 2001~~], multiplied by the service credit years of the member. These minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the effective dates listed in this subsection.

(4) The minimum retirement allowance provided in this section shall apply in the case of members retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the member and his beneficiary or beneficiaries as provided in the duly-adopted option tables at the time of the member's retirement.

(5) Effective July 1, ***2002***[~~2000~~], the monthly allowance of each ***retired*** member[~~ retired for at least one (1) year,~~] and each recipient of a retirement option of the retired member ***may***[~~shall~~] be increased in an amount not to exceed ***one and four-tenths percent (1.4%)***[~~eight-tenths of one percent (0.8%)~~] of the monthly allowance in effect the previous month***, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase***. The level of increase provided for in this subsection shall be determined by the funding provided in the ***2002-2004***[~~2000-2002~~] biennium budget appropriation.

(6) Effective July 1, ***2003***[~~2001~~], the monthly allowance of each ***retired*** member[~~ retired for at least one (1) year,~~] and each recipient of a retirement option of the retired member ***may***[~~shall~~] be increased in an amount not to exceed one ***and one-half*** percent ***(1.5%)***[~~(1.0%)~~] of the monthly allowance in effect the previous month***, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date***

that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the ***2002-2004***[~~2000-2002~~] biennium budget appropriation.

(7) Effective July 1, 1990, monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental or physical condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of the child or until the time the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) Members of the Teachers' Retirement System shall be subject to the annuity income limitations imposed by Section 415 of the Internal Revenue Service Code[~~ as enacted in 1988~~].

(9) Compensation in excess of the limitations imposed by Section 401(a)(17) of the Internal Revenue Code shall not be used in determining a member's[~~ regular~~] retirement annuity[~~ but shall be used in determining retirement allowance payments under the supplemental retirement plan of the retirement system which is intended to constitute a qualified governmental excess benefit plan as provided in Section 415 of the Internal Revenue Code~~]. The limitation on compensation for eligible members shall not be less than the amount which was allowed to be taken into account by the retirement system in effect on July 1, 1993. For this purpose, an eligible member is an individual who was a member of the retirement system before the first plan year beginning after December 31, 1995.

Section 29. KRS 161.623 is amended to read as follows:

(1) Effective July 1, 1982, and thereafter, a district board of education or other employer of members of the Teachers' Retirement System may compensate, at the time of retirement for service, an active ***contributing member***[~~teacher~~] for unused sick-leave days in accordance with this section.

(2) Upon the member's application for service retirement, the employer shall certify the retiring member's unused accumulated sick-leave balance to the board of trustees of the Kentucky Teachers' Retirement System. The member's sick-leave balance, expressed in days, shall be divided by one hundred eighty-five (185) days to determine the amount of service credit that may be considered for addition to the member's retirement account for the purpose of determining the retirement allowance under KRS 161.620. Such sick-leave credit shall not be used for the purpose of determining whether the member is eligible to receive a retirement allowance[~~ under KRS 161.600~~].

(3) The board shall compute the cost to the retirement system of the sick-leave credit for each retiring member and shall bill the last employer of the retiring member for such cost. The employer shall pay the cost of such service credit to the retirement system within fifteen (15) days after receiving notification of the cost from the board.

(4) Retiring members who receive service credit under this section shall not be eligible to receive compensation for accrued sick leave under KRS 161.155(9) or any other statutory provision.

(5) Employer participation is optional and the employer may opt to purchase less service credit than the member is eligible to receive provided the same percentage of reduction is made applicable to all retiring members of the employer during a school fiscal year.

(6) The board of trustees shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions.

(7) Payments to the retirement system for service credit obtained under this section or for compensation credit obtained under KRS 161.155(9) shall be based on the full actuarial cost as defined in KRS 161.220(22).

Section 30. KRS 161.655 is amended to read as follows:

(1) Effective July 1, 2000, the Teachers' Retirement System shall provide a life insurance benefit in a minimum amount of five thousand dollars ($5,000) for its members who are retired for service or disability. This life insurance ***benefit***[~~policy~~] shall be payable upon the death of a member retired for service or disability to the member's estate or to a party designated by the member on a form prescribed by the retirement system. The Teachers' Retirement System shall provide a life insurance benefit in a minimum amount of two thousand dollars ($2,000) for its active contributing members. This life insurance ***benefit***[~~policy~~] shall be payable upon the death of an active contributing member to the member's estate or to a party designated by the member on a form prescribed by the retirement system. Application for payment of life insurance proceeds shall be made to the Teachers' Retirement System together with acceptable evidence of death and eligibility. The reciprocal provisions of KRS 61.680(2)(a) shall not apply to the coverage and payment of proceeds by the life insurance benefit under this section.

(2) Suit or civil action shall not be required for the collection of the proceeds of the life insurance benefit provided for by this section, but nothing in this section shall prevent the maintenance of suit or civil action against the beneficiary or legal representative receiving the proceeds of the life insurance benefit.

Section 31. KRS 161.661 is amended to read as follows:

(1) Any member who has completed five (5) or more years of accredited service in the public schools of Kentucky after July 1,

1941, may retire for disability and be granted a disability allowance if found to be eligible as provided in this section. Application for disability benefits shall be made within ***three (3) months***[~~one (1) year~~] of the last contributing service in Kentucky, and the disability must have occurred during the most recent period of employment in a position covered by the Teachers' Retirement System and subsequent to the completion of five (5) years of teaching service in Kentucky. A disability occurring during the regular vacation immediately following the last period of active service in Kentucky or during an official leave for which the member is entitled to make regular contributions to the retirement system, shall be considered as having occurred during a period of active service. The annual disability allowance shall be equal to sixty percent (60%) of the member's final average salary***. Members with twenty-seven (27) or more years of service credit are eligible for service retirement only***[~~, except that a member retiring for disability who is also eligible for service retirement may elect to have the benefit calculated on the service retirement formula and may choose any of the retirement options provided for service retirement~~].

(2) The provisions of KRS 161.520, 161.525, and subsections (3), (4), and (5) of this section shall not apply to disability retirees whose benefits were calculated on the service retirement formula nor to survivors of these members.

(3) Members shall earn one (1) year of entitlement to disability retirement, at sixty percent (60%) of the member's final average salary, for each four (4) years of service in a covered position, but any member meeting the service requirement for disability retirement shall be credited with no less than five (5) years of eligibility.

(4) A member retired by reason of disability shall continue to earn service credit at the rate of one (1) year for each year retired for disability. This service shall be credited to the member's account at the expiration of entitlement as defined in subsection (3) of this section, or when the member's eligibility for disability benefits is terminated upon recommendation of a medical review committee, and this service shall be used in calculating benefits as provided in subsection (5) of this section***, but under no circumstances shall this service be used to provide the member with more than twenty-seven (27) years of total service credit***. The service credit shall be valued at the same level as service earned by active members ***as provided under KRS 161.600 and Section 28 of this Act***.

(5) Any member retired by reason of disability and remaining disabled at the expiration of the entitlement period shall have his disability benefits recalculated using the service retirement formula with service credit as set out in subsection (4) of this section. The retirement allowance shall be calculated as set forth in KRS 161.620, except that those persons less than sixty (60) years of age shall be considered as sixty (60) years of age. ***Members having their disability benefits recalculated under this subsection shall not be entitled to a benefit based upon an average of their three (3) highest salaries as set forth in subsection (9) of Section 3 of this Act, unless approved otherwise by the board of trustees.***

(6) Members who have their disability retirement allowance recalculated at the expiration of the entitlement period shall continue to have coverage under the post-retirement medical insurance program. Restrictions on employment shall remain in effect until the member attains age seventy (70) or until the member's eligibility is discontinued. KRS 161.520 and 161.525 shall not apply to survivors of disability retirees whose retirement allowances have been recalculated at the expiration of the entitlement period. Members who have their disability retirement allowance recalculated at the expiration of their entitlement period shall be entitled to a minimum monthly allowance of five hundred dollars ($500) as the basic straight life annuity. The minimum allowance shall be effective July 1, 1992, and shall apply to those members who have had their allowance recalculated prior to that date and to disability retirees who will have their benefit allowance recalculated on or after that date.

(7) Effective July 1, 1992, members retired for disability prior to July 1, 1964, shall be entitled to a minimum monthly allowance of five hundred dollars ($500) as their basic straight life annuity and their surviving spouse shall be eligible for survivor benefits as provided in KRS 161.520(1)(a) and (b).

(8) Any member retired by reason of disability may voluntarily waive disability benefits and return to teaching or any member, who is age sixty (60) years or older, may elect to waive disability benefits and retire for service on the basis of service credited to the member on the effective date of the disability retirement.

(9) In order to qualify for retirement by reason of disability a member must suffer from a physical or mental condition presumed to be permanent in duration and of a nature as to render the member incapable of being gainfully employed in a covered position. The incapability must be revealed by a competent examination by a licensed physician or physicians and must be approved by a majority of a medical review committee.

(10) A member retired by reason of disability shall be required to undergo periodic examinations at the discretion of the board of trustees to determine whether the disability allowance shall be continued. When examination and recommendation of a medical review committee indicate the disability no longer exists, the allowance shall be discontinued.

(11) Eligibility for payment shall begin on the first day of the month following receipt of the application in the Teachers' Retirement System office, or the first of the month next following the last payment of salary or sick leave benefits by the employer, whichever is the later date.

(12) No person who receives a disability allowance may be employed in a position that entails duties or qualification requirements similar to positions subject to participation in the retirement system either within or without the State of Kentucky. So doing shall constitute a misdemeanor and shall result in loss of the allowance from the first date of this service. ***A member who applies for and is approved for disability retirement on or after July 1, 2002, and whose annual disability benefit is less than thirty thousand dollars ($30,000) may earn income in any occupation other than covered***

employment only to the extent that the annual income from the other employment when added to the annual disability benefit does not exceed thirty thousand dollars ($30,000). For any member who exceeds this limit as a result of income from other employment, the Kentucky Teachers' Retirement System shall reduce the member's disability benefit on a dollar-for-dollar basis for each dollar that the member's combined annual disability benefit and annual income from other employment exceeds thirty thousand dollars ($30,000). The board of trustees may annually increase the thirty thousand dollar ($30,000) limit by the percentage increase in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%). All members who applied for disability retirement before July 1, 2002, and were approved as a result of that application shall be subject to the income limitations as they existed on June 30, 2002. The recipient of a disability allowance who engages in any gainful occupation other than covered employment must make a report of the duties involved, compensation received, and any other pertinent information required by the board of trustees.[~~If the annual income from other employment plus the disability benefit exceed the sum of twenty-seven thousand dollars ($27,000) or the last earned compensation, whichever is the greater amount, the benefit shall be reduced to an amount which with earned income will not exceed the last earned compensation or twenty-seven thousand dollars ($27,000), whichever is the greater amount. In no case shall the benefit be reduced to less than seventy-five dollars ($75) per month, if the member has five (5) or more years of contributing service in the Teachers' Retirement System.~~]

(13) The board of trustees shall designate medical review committees, each consisting of three (3) licensed physicians. A medical review committee shall pass upon all applications for disability retirement and upon all ***applicant*** statements, ***medical*** certifications, and examinations submitted in connection with disability applications. The disposition of each case shall be recommended by a medical review committee in writing to the ***retirement system***[~~board of trustees~~]. Members of a medical review committee shall follow administrative regulations regarding procedures as the board of trustees may enact and shall be paid reasonable fees and expenses as authorized by the board of trustees in compliance with the provisions of KRS 161.330 and 161.340. The ***retirement system***[~~board of trustees~~] may secure additional medical ***examinations***[~~service~~] and information as it deems necessary. ***A member may appeal any final agency decision denying his or her disability retirement application pursuant to the provisions of subsection (2) of Section 4 of this Act***[~~The board of trustees shall promulgate administrative regulations that specify member appeal procedures~~].

(14) A disability may be presumed to be permanent if the condition creating the disability may be reasonably expected to continue for one (1) year or more from the date of application for disability benefits.

(15) Any member who has voluntarily waived disability benefits or whose disability benefits have been discontinued on recommendation of a medical review committee, may apply for reinstatement of disability benefits. The application for reinstatement must be made to the retirement system within twelve (12) months of the date disability benefits terminated. If the termination of benefits were voluntary, the reinstatement may be made without medical examination if application is made within three (3) months of the termination date. Other applications for reinstatement will be processed in the same manner as new applications for benefits.

(16) No person who is receiving disability benefits under this section may be employed in a position which qualifies the person for membership in a retirement system financed wholly or in part with public funds. Employment in a position prohibited by this subsection shall result in disqualification for those disability benefits from the date of employment in the prohibited position.

(17) Any person who is receiving benefits and becomes disqualified from receiving those benefits under this section***, or becomes disqualified from receiving a portion of those benefits due to income from other than covered employment,*** shall immediately notify the Teachers' Retirement System of this disqualification in writing and shall return all benefits paid after the date of disqualification. Failure to comply with these provisions shall create an indebtedness of that person to the Teachers' Retirement System. Interest at the rate of eight percent (8%) per annum shall be charged if the debt is not repaid within sixty (60) days after the date of disqualification. Failure to repay this debt creates a lien in favor of the Teachers' Retirement System upon all property of the person who improperly receives benefits and does not repay those benefits. ***The Kentucky Teachers' Retirement System may, in order to collect an outstanding debt, reduce or terminate any benefit that a member is otherwise entitled to receive.***

Section 32. KRS 161.663 is amended to read as follows:

Any active contributing member with less than five (5) years of Kentucky service may apply and be approved for disability retirement under KRS 161.661 if the member is found to be mentally or physically incapacitated as a result of ***a single, traumatic, physical***[~~an~~] injury related directly to their covered employment. All conditions and restrictions specified under KRS 161.661 shall be applicable, except that the initial annual disability allowance shall be equal to fifty percent (50%) of the member's current annual contract salary and the member's last annual contract salary shall be used in lieu of the final average salary in the recalculation of the member's benefit at the expiration of the eligibility period.

Section 33. KRS 161.675 is amended to read as follows:

(1) The board of trustees shall arrange by appropriate contract or on a self-insured basis to provide a broad program of group hospital and medical insurance for present and future eligible recipients of a retirement allowance from the Teachers' Retirement System. The board of trustees may also arrange to provide health insurance coverage by health maintenance organizations as defined in KRS 18A.225 as an alternative to group hospital and medical insurance for persons eligible for hospital and medical benefits under this section. The board of trustees may authorize present and future eligible recipients

of a retirement allowance from the Teachers' Retirement System who are less than age sixty-five (65) to be included in the state-sponsored health insurance that is provided to active teachers and state employees under KRS 18A.225. Members who are sixty-five (65) or older and retired for service shall not be eligible to participate in the state employee health insurance program as described in KRS 18A.225.

(2) The coverage provided shall be as set forth in the contracts and the administrative regulations of the board of trustees. The board of trustees may change the levels of coverage and eligibility conditions to meet the changing needs of the annuitants and when necessary to contain the expenses of the insurance program within the funds available to finance the insurance program. The contracts and administrative regulations shall provide for, but not be limited to, hospital room and board, surgical procedures, doctors' care in the hospital, and miscellaneous hospital costs. ***An annuitant***[~~A retiree~~] whose effective date of retirement is July 1, 1974, and thereafter, must have a minimum of five (5) years creditable Kentucky service in the Teachers' Retirement System or ***five (5) years of combined creditable service in the state-administered retirement systems if the member is retiring under the reciprocity provisions of KRS 61.680 and 61.702. A member retiring under the reciprocity provisions of KRS 61.680 and 61.702 may not elect coverage through more than one (1) of the state-administered retirement systems***[~~of combined service in the Kentucky Employees Retirement System, of which at least two (2) years was creditable service under KRS 161.607(2), to qualify for the coverage~~]. The board of trustees shall offer coverage to the disabled child of ***an annuitant***[~~a retired member~~] regardless of the disabled child's age if the ***annuitant***[~~retired member~~] pays the entire premium for the disabled child's coverage. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(3) All expenses for benefits under this section shall be paid from the funding provisions contained in KRS 161.420(5), premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute.

(4) (a) The board of trustees shall determine the amount of health insurance supplement payments that the Teachers' Retirement System will provide to assist eligible ***annuitants***[~~recipients of a retirement allowance~~] in paying the cost of their health insurance, based on the funds available in the medical insurance fund. The board of trustees shall establish the maximum monthly amounts of health insurance supplement payments that will be made by the retirement system for eligible ***annuitants***[~~recipients of a retirement allowance~~]. The board of trustees shall annually establish the percentage of the maximum monthly health insurance supplement payment that will be made, based on age and years of service credit of eligible recipients of a retirement allowance. Monthly health insurance supplement payments made by the retirement system may not exceed the amount of the single coverage insurance premium chosen by the eligible ***annuitants***[~~recipients of a retirement allowance~~]. In order to qualify for health insurance supplements made by the retirement system, the ***annuitant***[~~recipient of a supplement payment~~] must agree to pay the difference between the insurance premium and the applicable supplement payment, by payroll deduction from his retirement allowance, or by a payment method approved by the retirement system.

(b) The board of trustees may offer, on a full-cost basis, health care insurance coverage provided by the retirement system to spouses and dependents of eligible ***annuitants***[~~retirees~~] not ***otherwise*** eligible for regular coverage. Recipients of a retirement allowance from the retirement system must agree to pay the cost of this coverage by payroll deduction from their retirement allowance or by a payment method approved by the retirement system.

(c) The board of trustees shall offer, on a full-cost basis, health insurance coverage provided by the retirement system to the disabled child of ***an annuitant***[~~a retired member~~], regardless of the age of the disabled child. A child shall be considered disabled for purposes of this section if the child has been determined to be eligible for federal Social Security disability benefits.

(5) The board of trustees is empowered to require the annuitant and the annuitant's spouse to pay a premium charge to assist in the financing of the hospital and medical insurance program. The board of trustees is empowered to pay the expenses for insurance coverage from the medical insurance fund, from the premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute. The board may provide insurance coverage by making payment to insurance carriers including health insurance plans that are available to active and retired state employees and active teachers, institutions, and individuals for services performed, or the board of trustees may elect to provide insurance on a "self-insurance" basis or a combination of these provisions.

(6) The board of trustees may approve health insurance supplement payments to eligible ***annuitants***[~~retirees or recipients~~] who are less than sixty-five (65) years of age, as reimbursement for hospital and medical insurance premiums made by ***annuitants***[~~retirees~~] for their individual coverage. Eligible ***annuitants***[~~retirees~~] or recipients are those ***annuitants***[~~retirees or recipients~~] who are not eligible for Medicare and who do not reside in Kentucky or in an area outside of Kentucky where comparable coverage is available. The reimbursement payments shall not exceed the minimum supplement payment that would have been made had the ***annuitant***[~~retiree~~] lived in Kentucky. Eligible ***annuitants***[~~retirees~~] or recipients shall submit proof of payment to the retirement system for hospital and medical insurance that they have obtained. Reimbursement payments shall be made on a quarterly basis.

(7) Contracts negotiated may include the provision that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system.

(8) The board of trustees is empowered to promulgate administrative regulations to assure efficient operation of the hospital

and medical insurance program.

(9) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient.

(10) In the event that a member is providing services on less than a full-time basis under Section 25 of this Act, the retirement system may pay the full cost of the member's health insurance coverage for the full fiscal year that the member is providing those services, at the conclusion of which, the retirement system may then bill the active employer and the active employer shall reimburse the retirement system for the cost of the health insurance coverage incurred by the retirement system on a pro rata basis for the time that the member was employed by the active employer.

Section 34. KRS 161.700 is amended to read as follows:

(1) The right of a ***member***[~~teacher~~] to a retirement allowance and to the return of contributions, any benefit or right accrued or accruing to any person under the retirement system, and the money in the various funds of the retirement system are exempt from any state or municipal tax, are not subject to execution, garnishment, attachment, or other process, and are unassignable except as provided in this chapter, and except for court or administratively ordered current child support, owed child support, or to-be-owed child support. Except retirement benefits accrued or accruing to any person under this retirement system on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(2) Retirement allowance, disability allowance, accumulated contributions, or any other benefit under the retirement system shall not be classified as marital property pursuant to KRS 403.190(1). Retirement allowance, disability allowance, accumulated contributions, or any other benefit under the retirement system shall not be considered as an economic circumstance during the division of marital property in an action for dissolution of marriage pursuant to KRS 403.190(1)(d).

Section 35. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall include a person, including an elected public official, who is regularly employed by any department, board, agency, branch of state government, or any municipal, urban-county, charter county, or county government, whose legislative body has opted to participate in the state health insurance program pursuant to KRS 79.080 and who is a contributing member to any one (1) of the retirement systems administered by the state. It shall also include a person who must fulfill the requirements established by the Kentucky Board of Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems and includes members of the Legislators' Retirement Plan as provided in KRS 18A.2287. It shall also include a person who is a present or future recipient of a retirement allowance from the Teachers' Retirement System of Kentucky who either satisfies the requirements of KRS 161.525, 161.620, and 161.675 or who is board certified, including a beneficiary of a retired member who is receiving a retirement allowance from the Teachers' Retirement System of Kentucky, except that a member who is receiving a retirement allowance from the Teachers' Retirement System and who is age sixty-five (65) or older shall not be included ***unless that member is reemployed in a position covered by any one (1) of the state-administered retirement systems***.

(2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health care coverage including, but not limited to, indemnity, health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of state employees. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994. All state employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the state or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment. For calendar year 2001 only, an emergency shall exist when any county in which only one (1) health insurance company offers a single plan to state employees and, subsequent to the open enrollment period, the health insurance company fails to maintain at least sixty-five percent

(65%) of its contracts within the geographic region with specialty physicians who were participating in the network at the time of open enrollment. The Finance and Administration Cabinet shall immediately notify the Governor, the Legislative Research Commission, and the secretary of the Personnel Cabinet and shall be authorized to immediately negotiate and contract with additional health insurance companies for additional plans to serve any county without meeting the requirements of the Model Procurement Code under KRS Chapter 45.

(b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws.

(c) Any carrier bidding to offer health care coverage to members of the state group shall agree to provide coverage to all members of the state group, including both active employees and retirees within the county or counties specified in its bid. Furthermore, any carrier bidding to offer health care coverage to members of the state group shall also agree to rate all such members of the state group as a single entity, except for those retirees whose former employers insure their active employees outside the state health insurance program.

(d) Any carrier bidding to offer health care coverage to any member of the state group shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance of data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual member; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.

(e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall provide to the General Assembly in June of each year an analysis of enrollment, claims, utilization data of all carriers for the prior plan year ending December 31, and on the financial stability of the program. The report shall include, but not be limited to, loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, paid dependent coverage, and statutorially required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including, but not limited to, loss ratios, reserves, and reinsurance agreements.

(f) If any agency participating in the state employee health insurance program for its active members terminates participation in the state employee health insurance program for its active members and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, neither the agency nor the employees shall receive the state-funded contribution after termination from the state employee health insurance program.

(g) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state health insurance plan's appropriation account.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, may procure from one (1) or more dental insurance companies, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under Subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government; or

(c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government for any other health care coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a managed health care plan or of a prepaid dental plan, under which he has elected coverage, into either the service area of another managed health care plan or prepaid dental plan or into an area of the state not within a managed health care plan service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health care plan or dental plan.

(6) No payment of premium by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and other provisions the commissioner of insurance may approve.

(8) The policy or policies shall contain the provision that employees or retired employees shall be allowed to change health care plans during the reopening period without any limitation for pre-existing conditions if the employee has met the pre-existing condition limitation upon initial employment or reemployment with the group.

(9) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining health care coverage and dental coverage under the provisions of this section.

(10) Group rates under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(11) The health care contract or contracts for state employees shall be entered into for a period of not less than one (1) year.

(12) The secretary shall appoint twenty-eight (28) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state health insurance program for state employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.

(13) Notwithstanding any other provision of law to the contrary, the policy or policies provided to state employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of state employees or their dependents.

(14) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Personnel Cabinet, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.

Section 36. Whereas, retirement annuity adjustments are implemented at the beginning of the fiscal year, an emergency is declared to exist, and this Act takes effect July 1, 2002.

The Committee Substitute to **HB 637** is as follows:

HB 637, AN ACT relating to the Kentucky Teachers' Retirement System and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 161.220 TO 161.716 IS CREATED TO READ AS FOLLOWS:

Effective July 1, 2002, any individual occupying a position on a part-time basis that requires certification or graduation from a four (4) year college or university as a condition of employment and any individual providing part-time or substitute teaching services that are the same or similar to those teaching services provided by certified, full-time teachers shall be a member of the Kentucky Teachers' Retirement System, according to the conditions set forth in this section, if the individual is employed by one (1) of the public boards, institutions, or agencies set forth in Section 3 of this Act. Members providing part-time and substitute services shall participate in the retirement system as follows:

(1) Members providing part-time and substitute services shall accrue service credit as provided under KRS 161.500 and be entitled to a retirement allowance upon meeting the service retirement conditions of KRS 161.600. The board of trustees shall adopt a methodology for accrediting service credit to these members on a pro rata basis. The methodology adopted by the board of trustees may be amended as necessary to ensure its actuarial soundness. The retirement allowance for members providing part-time and substitute services shall be calculated pursuant to Section 28 of this Act. Members providing part-time and substitute services who meet the service retirement conditions of KRS 161.600 may also be eligible to participate as approved by the board of trustees in the medical insurance program provided by the retirement system under Section 33 of this Act. Members providing part-time and substitute services shall make contributions to the Kentucky Teachers' Retirement System at the rate provided under Section 16 of this Act. A member who provides part-time or substitute services, or in the event of the death of the member, the member's

estate or applicably designated beneficiary, will be entitled, within ninety (90) days of the posting of the annual report submitted by the member's employer, to a refund of contributions as permitted and limited by Section 11 of this Act.

(2) The board of trustees shall adopt eligibility conditions under which members providing part-time and substitute services may participate in the benefits provided under KRS 161.520, and Sections 22, 31, and 32 of this Act. The board of trustees may adopt eligibility conditions under which members providing part-time or substitute services may participate in other benefits offered by the retirement system. All eligibility conditions adopted by the board of trustees pursuant to this subsection may be amended as necessary to ensure their actuarial soundness.

(3) In addition to the pro rata methodology adopted by the board of trustees under subsection (1) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding the accrual, retention, accreditation, and use of service credit that apply to members providing full-time services. In addition to the eligibility conditions set forth by the board of trustees under subsection (2) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding both the eligibility to participate and the extent of participation in any benefit offered under KRS 161.220 to 161.716 that apply to members providing full-time services.

(4) The board of trustees of the Teachers' Retirement System shall be responsible for final determination of membership eligibility and may direct employers to take whatever action that may be necessary to correct any error relating to membership.

(5) The provisions of this section are not subject to KRS 161.714.

SECTION 2. A NEW SECTION OF KRS 161.220 TO 161.716 IS CREATED TO READ AS FOLLOWS:

A court order awarding additional back salary to or reinstating a member as a result of employment in a position covered by the Kentucky Teachers' Retirement System shall entitle the member to additional salary or service credit, or both, under the following circumstances:

(1) Members shall make contributions to the Kentucky Teachers' Retirement System at the rate set forth in Section 16 of this Act and members' employers shall make contributions at the rate set forth in Section 20 of this Act, with interest accruing on all contributions at the rate of eight percent (8%) per annum from the end of each fiscal year that back salary or the reinstatement was ordered. Contributions, plus interest, shall be made for each year that back salary or reinstatement was ordered. No service or salary credit shall be credited to a member's account unless full contributions are paid to the Kentucky Teachers' Retirement System.

(2) The member may have court-ordered back salary credited to his or her account only to the extent that the member actually received payment for the back salary and only to the extent that the court-ordered back salary is within the salary scale that was available to the member in the covered position for the years that the back salary was awarded. Court-ordered back salary can be credited to the member's account only as permitted under subsections (9) and (10) of Section 3 of this Act.

(3) The member's employer ordered to pay back salary or to reinstate the member by a court of competent jurisdiction shall provide the retirement system with a breakdown of the back salary awarded to the member on a year-by-year basis.

(4) The calculations of the contributions and interest required to be paid for court-ordered back salary or reinstatement shall be provided by the retirement system to the member or the member's employer at the member's or employer's request. Requests for these calculations shall be made with at least two (2) weeks of advance notice to the retirement system to provide these calculations. The retirement system will calculate accrued interest as of the last day of the month during which payment of the full contributions are made.

(5) For purposes of this section, a settlement agreement that provides back salary or reinstatement, and is adopted by order or judgment of a court of competent jurisdiction or is referenced in an order dismissing the action as settled shall have the same effect as a court order adjudicating the matter. Orders entered by a government board or agency as a result of litigation conducted on an administrative hearing level shall be considered as court orders for the purposes of this section.

(6) Under no circumstances shall a member be entitled to service credit as a result of court-ordered reinstatement that is in violation of the provisions of Section 20 of this Act.

Section 3. KRS 161.220 is amended to read as follows:

As used in KRS *161.220*[~~161.230~~] to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the commissioner of education, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any *full-time*[~~regular or special~~] teacher[~~,~~] or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and

who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;

(c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The State Department of Education, ***the Education Professional Standards Board,*** other public education agencies as created by the General Assembly,~~[including the Education Professional Standards Board,]~~ and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) The Department for Adult Education and Literacy, except that the commissioner shall not be a member;

(h) The Department for Technical Education, except that the commissioner shall not be a member;

(i) The Department of Vocational Rehabilitation;

(j) The Kentucky Educational Collaborative for State Agency Children;

(k) The Governor's Scholars Program;

(l) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;

(m) Employees of the Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the Cabinet for Workforce Development, shall be members of the Teachers' Retirement System;

(n) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620; and

(o) Employees of the Office of General Counsel, the Office for Policy and Budget, the Office of Personnel Services, and the Office for Administrative Services within the Office of the Secretary of the Cabinet for Workforce Development and the commissioners of the Department for Adult Education and Literacy and the Department for Technical Education who were contributing to the Kentucky Teachers' Retirement System as of July 15, 2000;

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System

after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up ***member***[~~employee~~] contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up ***member***[~~employee~~] contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for ***members***[~~employees~~] of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 158.782 on or after July 1, 1996. ***Under no circumstances shall annual compensation include compensation that is earned by a member while on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section. In the event that federal law requires that a member continue membership in the retirement system even though the member is on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section, the member's annual compensation for retirement purposes shall be deemed to be the annual compensation, as limited by subsection (9) of this section, last earned by the member while still employed solely by and providing services directly to a public board, institution, or agency listed in subsection (4) of this section.*** The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) ***"Employ," and derivatives thereof, means relationships under which an individual provides services to an employer as an employee, as an independent contractor, as an employee of a third party, or under any other arrangement as long as the services provided to the employer are provided in a position that would otherwise be covered by the Kentucky Teachers' Retirement System and as long as the services are being provided to a public board, institution, or agency listed in subsection (4) of this section***[~~"Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28~~];

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up ***member***[~~employee~~] contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. ***The retirement plan year is concurrent with this fiscal year.*** A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related

costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up ***member***[~~employee~~] contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;

(21) "***Full-time" means employment in a position that***[~~Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which~~] requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a ***fiscal year***[~~daily or weekly~~] basis;[~~ and~~]

(22) "Full actuarial cost," when used to determine the payment that a member must pay for service credit means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in KRS 161.400***; and***

(23) "Last annual compensation" means the annual compensation, as defined by subsection (10) of Section 3 of this Act and as limited by subsection (9) of Section 3 of this Act, earned by the member during the twelve (12) months immediately preceding the member's effective retirement date, excluding bonuses, retirement incentives, payments for accumulated sick, annual, personal and compensatory leave, and any other lump-sum payment.

Section 4. KRS 161.250 is amended to read as follows:

(1) The general administration and management of the retirement system, and the responsibility for its proper operation and for making effective provisions of KRS 161.155 and 161.220 to 161.714 are vested in a board of trustees to be known as the "Board of Trustees of the Teachers' Retirement System of the State of Kentucky." The board of trustees shall consist of the chief state school officer, the State Treasurer, and seven (7) other trustees elected as provided in KRS 161.260. Four (4) of the elective trustees shall be members of the retirement system, to be known as teacher trustees, two (2) shall be persons who are not members of the teaching profession, to be known as the lay trustees, and one (1) shall be an annuitant of the retirement system to be known as the retired teacher trustee. One (1) teacher trustee shall be elected annually for a four-year term. The retired teacher trustee shall be elected every four (4) years. The chief state school officer and the State Treasurer are considered ex-officio members of the board of trustees and may designate in writing a person to represent them at board meetings.

(2) A member, retired member, or designated beneficiary may appeal the retirement system's decisions that materially affect the amount of service retirement allowance, amount of service credit, eligibility for service retirement or eligibility for survivorship benefits to which that member, retired member, or designated beneficiary claims to be entitled. All appeals must be in writing and filed with the retirement system within thirty (30) days of the claimant's first notice of the retirement system's decision. For purposes of this section, notice shall be complete and effective upon the date of mailing of the retirement system's decision to the claimant at the claimant's last known address. Failure by the claimant to file a written appeal with the retirement system within the thirty (30) day period shall result in the decision of the retirement system becoming permanent with the effect of a final and unappealable order. Appeals may include a request for an administrative hearing which shall be conducted in accordance with the provisions of KRS Chapter 13B. ***The board of trustees may establish an appeals committee whose members shall be appointed by the chairperson and who shall have the authority to act upon the report and recommendation of the hearing officer by issuing a final order on behalf of the full board of trustees.*** A member, retired member, or designated beneficiary who has filed a timely, written appeal of a decision of the retirement system may, following the administrative hearing and issuance of the final order by the board of trustees, appeal the final order of the board of trustees to the Franklin Circuit Court in accordance with the provisions of KRS Chapter 13B.

Section 5. KRS 161.310 is amended to read as follows:

(1) The board of trustees shall from time to time promulgate administrative regulations for the administration of the funds of the retirement system and for the transaction of business.

(2) All rules, regulations, or policies adopted by school districts, universities, or other employers participating in the Teachers' Retirement System that pertain to the retirement system shall conform to this chapter.

(3) All rules, regulations, or policies adopted***, or decisions made,*** by school districts, universities, or other employers participating in the Teachers' Retirement System that pertain to retirement incentives for members as defined in KRS 161.220(4) shall contain provisions for the school district, university, or other employer to make full payment to the retirement system at the time a member retires for all actuarial obligations that occur to the retirement system as a result of retirement incentive payments. This subsection shall not apply to retirement incentive plans adopted by local boards of education prior to December 31, 1997, and to those employees of local school districts who retired on or before July 1, 1998.

Section 6. KRS 161.340 is amended to read as follows:

(1) The board of trustees shall elect from its membership a chairperson and a vice chairperson on an annual basis as prescribed by the administrative regulations of the board of trustees. The board of trustees shall employ an executive secretary by means of a contract not to exceed a period of four (4) years and fix the compensation and other terms of employment for

this position without limitation of the provisions of KRS Chapters 18A, 45A, 56, and KRS 64.640. The executive secretary shall be the chief administrative officer of the board. The executive secretary, at the time of employment, shall be a graduate of a four (4) year college or university, and shall possess qualifications as the board of trustees may require. The executive secretary shall not have held by appointment or election an elective public office within the five (5) year period next preceding the date of employment.

(2) The board shall employ clerical, administrative, and other personnel as are required to transact the business of the retirement system. The compensation of all persons employed by the board shall be paid at the rates and in amounts as the board approves. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and the control of determining and maintaining an adequate complement of employees in the system shall be under the exclusive jurisdiction of the board of trustees.

(3) The board shall contract for actuarial, auditing, ***legal,*** medical, investment counseling, and other professional or technical services as are required to carry out the obligations of the board in accordance with the provisions of this chapter without limitations, including KRS Chapters ***12, 13B,*** 56, 57, ***45,*** and 45A, and shall provide for legal counsel and other legal services as may be required in defense of trustees, officers, and employees of the system who may be subjected to civil action arising from the performance of their legally assigned duties if counsel and services are not provided by the Attorney General.

(4) The board shall require the trustees, executive secretary, and employees it determines proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.

(5) The board of trustees may expend funds from the expense fund as necessary to insure the trustees, employees, and officials of the Teachers' Retirement System against any liability arising out of an act or omission committed in the scope and course of performing legal duties.

(6) Notwithstanding any statute to the contrary, employees shall not be considered legislative agents as defined in KRS 6.611.

Section 7. KRS 161.400 is amended to read as follows:

(1) The board of trustees shall designate as actuary a competent person who shall be a fellow of the Conference of ***Consulting*** Actuaries[~~ in Public Practice~~] or a member of the American Academy of Actuaries. He shall be the technical adviser of the board on matters regarding the operation of the funds of the system and shall perform such other duties as are required in connection therewith. At least once in each six (6) year period after the first year of operation of the system, the actuary shall make an actuarial investigation into the actuarial assumptions used, including, but not limited to, mortality, ***investment rate of return***[~~earnable interest~~], and service and compensation of the members and beneficiaries of the retirement system; ***and*** make a valuation of the assets and liabilities of the funds of the system[~~; and recommend to the board of trustees such changes as may be deemed necessary to keep the retirement system on a sound financial basis~~]. ***At least annually the actuary shall make an actuarial valuation of the retirement system. The valuation shall include a description of the actuarial assumptions used, and the assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience.*** On the basis of the results of ***the valuations***[~~such investigations~~], the board of trustees shall make necessary changes in the retirement system within the provisions of law and shall recommend the contributions payable by the state within the limits specified in KRS 161.550.[~~ At least once in each two (2) year period the actuary shall make an actuarial valuation of the retirement system. The valuation shall include a description of the actuarial assumptions used, and such assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience.~~]

(2) Actuarial factors and actuarial cost factor tables in use by the retirement system for all purposes shall be determined by the actuary of the retirement system and approved by the board of trustees by resolution and implemented without the necessity of an administrative regulation. The assets of the system shall be valued at market value, or at a modified market value determined by the board to be a prudent measure of asset value. Effective July 1, 1992, the spread between investment and salary assumptions shall be reviewed and adjusted at the time of actuarial valuation, based upon the most recent five (5) year experience of the system.

(3) A copy of each actuarial investigation and valuation shall be forwarded to the Legislative Research Commission no later than ten (10) days after receipt by the board.

Section 8. KRS 161.420 is amended to read as follows:

All of the assets of the retirement system are for the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system. The board of trustees shall be the trustee of all funds of the system and shall have full power and responsibility for administering the funds. It is hereby declared that the restrictions and rights provided herein shall not be subject to reduction or impairment by alteration, amendment, or repeal. All the assets of the retirement system shall be credited according to the purpose for which they are held to one (1) of the following funds:

(1) The expense fund shall consist of the funds set aside from year to year by the board of trustees to defray the expenses of the administration of the retirement system. Each fiscal year an amount not greater than four percent (4%) of the ***dividends and interest*** income earned from investments during the immediate past fiscal year shall be set aside into the expense fund or expended for the administration of the retirement system;

(2) The teachers' savings fund shall consist of the contributions paid by members of the retirement system into this fund and

regular interest assigned by the board of trustees from the guarantee fund. ***A member may not borrow any amount of his or her accumulated contributions to this fund, or any interest earned thereon.*** The accumulated contributions of a member returned to him upon his withdrawal or paid to his estate or designated beneficiary in the event of his death shall be paid from the teachers' savings fund. Any accumulated contributions forfeited by a failure of a teacher or his estate to claim these contributions shall be transferred from the teachers' savings fund to the guarantee fund. The accumulated contributions of a member shall be transferred from the teachers' savings fund to the allowance reserve fund in the event of retirement by reason of service or disability;

(3) The state accumulation fund shall consist of funds appropriated by the state for the purpose of providing annuities, survivor benefits, and death benefits, including any sums appropriated for meeting unfunded liabilities, together with regular interest assigned by the board of trustees from the guarantee fund. At the time of retirement or death of a member there shall be transferred from the state accumulation fund to the allowance reserve fund an amount which together with the sum transferred from the teachers' savings fund will be sufficient to provide the member a retirement allowance and provide for benefits under KRS 161.520, 161.525, and 161.655;

(4) The allowance reserve fund shall be the fund from which shall be paid all retirement allowances and benefits provided under KRS 161.520, 161.525, and 161.655. In addition, whenever a change in the status of a member results in an obligation on this fund, there shall be transferred to this fund from the teachers' savings fund, and the state accumulation fund, the amounts as may be held in those funds for the account or benefit of the member;

(5) The medical insurance fund shall consist of amounts accumulated for the purpose of providing benefits as provided in KRS 161.675. One and five tenths percent (1.5%) of the gross annual payroll of all members shall be deposited to this fund. One-half (1/2) of this amount shall derive from member contributions and one-half (1/2) from a state appropriation. The board of trustees may allocate the three and twenty-five hundredths percent (3.25%) of the total salaries of active members that the state appropriates annually as provided under KRS 161.550. ***The medical insurance fund shall receive all interest income from the investments of the fund.*** All claims for benefits under KRS 161.675 shall be paid from this fund. Any amounts not required to meet current costs shall be maintained as a reserve for these benefits; and

(6) The guarantee fund shall be maintained to facilitate the crediting of uniform interest on the amounts of the other funds, except the expense fund, to finance operating expenses directly related to investment management services, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. All income, interest, and dividends derived from the authorized deposits and investments shall be paid into the guarantee fund. Any funds received from gifts and bequests, which the board is hereby authorized to accept and expend without limitation in a manner either expressed by the donor or deemed to be in the best interest of the membership, shall be credited to the guarantee fund. Any funds transferred from the teachers' savings fund by reason of lack of claimant or because of a surplus in any fund and any other moneys whose disposition is not otherwise provided for, shall also be credited to the guarantee fund. The interest allowed by the board of trustees to each of the other funds shall be paid to these funds from the guarantee fund. Any deficit occurring in any fund that would not be automatically covered shall be met by the payments from the guarantee fund to that fund. The board of trustees may, at any time during a fiscal year, transfer from the guarantee fund to the medical insurance fund an amount not to exceed four percent (4%) of the income earned from investments during the immediate past year.

(7) The school employee annuity fund shall consist of those funds voluntarily contributed under the provisions of section 403(b) of the Internal Revenue Code by a retired member of the Teachers' Retirement System with accounts that existed on or after July 1, 1996. The contributions shall not be picked up as provided in KRS 161.540(2). Separate member accounts shall be maintained for each member. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to manage this program.

(8) The supplemental retirement benefit fund shall consist of those funds contributed by[~~ the member and~~] the employer for the purpose of constituting a qualified government excess benefit plan as described in Section 415 of the Internal Revenue Code for accounts that existed on or after July 1, 1996.[~~ The contributions shall not be picked up as provided in KRS 161.540(2). Separate member accounts shall be maintained for each member.~~] The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to administer this program.

(9) The defined contribution fund shall consist of those funds contributed by retired members who have been approved by the retirement system for full-time reemployment in a position covered by the retirement system and contributions made by the employer for the purpose of providing separate retirement allowances for periods of reemployment. Separate member accounts shall be maintained for each member. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to administer this program. The contributions shall not be picked up as provided in KRS 161.540(2).

(10) The life insurance benefit fund shall consist of amounts accumulated for the purpose of providing benefits provided under Section 30 of this Act. The board of trustees may allocate to this fund a percentage of the employer and state contributions as provided under Section 20 of this Act. The allocation to this fund will be in an amount that the actuary determines necessary to fund the obligation of providing the benefits provided under Section 30 of this Act.

Section 9. KRS 161.430 is amended to read as follows:

(1) The board of trustees shall be the trustee of the funds of the retirement system and shall have full power and responsibility for the purchase, sale, exchange, transfer, or other disposition of the investments and moneys of the retirement system. The

board shall, by administrative regulation, establish investment policies and procedures to carry out their responsibilities. The board shall employ experienced competent investment counselors to advise it on all matters pertaining to investment, except the board may employ qualified investment personnel to advise it on investment matters not to exceed fifty percent (50%) of the book value of the system's assets. ***All individuals associated with the investment and management of retirement system assets, whether contracted investment advisors or staff employees, shall adhere to "The Code of Ethics" and "The Standards of Professional Conduct" promulgated by the Association for Investment Management and Research.*** Effective July 1, 1991, no investment counselor shall manage more than forty percent (40%) of the funds of the retirement system. The board may appoint an investment committee consisting of the executive secretary and two (2) trustees to act for the board in all matters of investment, subject to the approval of the board of trustees. The board of trustees, in keeping with their responsibilities as trustees and wherever consistent with their fiduciary responsibilities, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth. Toward this end, the board shall develop procedures for informing the business community of the potential for in-state investments by the retirement fund, accepting and evaluating applications for the in-state investment of funds, and working with members of the business community in executing in-state investments which are consistent with the board's fiduciary responsibilities. The board shall include in the criteria it uses to evaluate in-state investments their potential for creating new employment opportunities and adding to the total job pool in Kentucky. The board may cooperate with the board of trustees of Kentucky Retirement Systems in developing its program and procedures, and shall report to the Legislative Research Commission annually on its progress in placing in-state investments. The first report shall be submitted by October 1, 1991, and subsequent reports shall be submitted by October 1 of each year thereafter. The report shall include the number of applications for in-state investment received, the nature of the investments proposed, the amount requested, the amount invested, and the percentage of applications which resulted in investments.

(2) The board members and investment counselor shall discharge their duties with respect to the assets of the system solely in the interests of the active contributing members and annuitants and:

(a) For the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system;

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims;

(c) By diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(d) In accordance with the laws, administrative regulations, and other instruments governing the system.

(3) (a) In choosing and contracting for professional investment management services the board must do so prudently and in the interest of the members and annuitants. Any contract that the board makes with an investment counselor shall set forth policies and guidelines of the board with reference to standard rating services and specific criteria for determining the quality of investments. Expenses directly related to investment management services shall be financed from the guarantee fund in amounts approved by the board.

(b) An investment counselor appointed under this section shall acknowledge in writing his fiduciary responsibilities to the fund. To be eligible for appointment, an investment counselor must be:

1. Registered under the Federal Investment Advisors Act of 1940; or

2. A bank as defined by that Act; or

3. An insurance company qualified to perform investment services under the laws of more than one (1) state.

(4) No investment or disbursement of funds shall be made unless authorized by the board of trustees, except that the board, in order to ensure timely market transactions, shall establish investment guidelines, by administrative regulation, and may permit its staff and investment counselors employed pursuant to this section to execute purchases and sales of investment instruments within those guidelines without prior board approval.

Section 10. KRS 161.440 is amended to read as follows:

At the end of each fiscal year the board of trustees shall assign from the guarantee fund interest at the rate of three percent (3%) to the teachers' savings fund, the state accumulation fund, and the allowance reserve fund~~[, and, effective July 1, 1978, interest at a rate of interest not to exceed the average yield on fixed income security investments for the immediate past year to the medical insurance fund]~~. The amounts so allowed shall be due and payable to the funds and shall be annually credited thereto by the board of trustees from interest and other earnings on money of the retirement system.

Section 11. KRS 161.470 is amended to read as follows:

(1) The membership of the retirement system shall consist of all new members, all present teachers, and all persons participating under the retirement system as of June 30, 1986, except as provided in Acts 1938 (1st Ex. Sess.), Ch. 1, paragraph 29. The board of trustees of the Teachers' Retirement System shall be responsible for final determination of membership eligibility and may direct employers to take whatever action that may be necessary to correct any error relating to membership.

(2) Service credit shall be forfeited upon withdrawal. If a member again enters service it shall be as a new member, except that any teacher who withdraws by claiming his deposits may repay the system the amount withdrawn plus interest and reestablish his service credit as provided in subsection (3) of this section.

(3) Effective July 1, 1988, and thereafter, an active contributing member of the retirement system with contributing service equal to one (1) year may regain service credit by depositing in the teachers' savings fund the amount withdrawn with interest at the rate to be set by the board of trustees, and computed from the first of the month of withdrawal and including the month of redeposit.

(4) Effective July 1, 1974, any active contributing member with at least two (2) years of contributing service credit who declined membership as provided in Acts 1938 (1st Ex. Sess.), Ch. 1, paragraph 29, may secure service credit for prior service, and for any subsequent service prior to date of membership, by depositing in the teachers' savings fund contributions for each year of subsequent service prior to date of membership, with interest at the rate of eight percent (8%) compounded annually to the date of deposit.

(5) Membership in the retirement system shall be terminated:

(a) By retirement for service;

(b) By death;

(c) By withdrawal of the member's accumulated contributions;

(d) When a member, having less than five (5) years of Kentucky service is absent from service for more than three (3) consecutive years; or

(e) For persons hired on or after August 1, 2000, when a member is convicted, in any state or federal court of competent jurisdiction, of a felony related to his employment as provided in subparagraphs 1. and 2. of this paragraph.

1. Notwithstanding any provision of law to the contrary, a member hired on or after August 1, 2000, who is convicted, in any state or federal court of competent jurisdiction, of a felony related to his employment shall forfeit rights and benefits earned under the retirement system, except for the return of his accumulated contributions and interest credited on those contributions.

2. The payment of retirement benefits ordered forfeited shall be stayed pending any appeal of the conviction. If the conviction is reversed on final judgment, no retirement benefits shall be forfeited.

Except for paragraph (e) of this subsection, upon termination of member accounts under this subsection, funds in the account shall be transferred to the guarantee fund. Inactive members may apply for refunds of these funds at any time. The terminated service shall be reinstated, if not withdrawn by the member, in the event that the member returns to active contributing service.

(6) In case of withdrawal from service prior to eligibility for retirement, the board of trustees shall on request of the member return all of his accumulated contributions with regular interest, including any payments made by the member to the state accumulation fund, but the member shall have no claim on any contributions made by the state with a view to his retirement or to contributions made to the medical insurance fund. If the member is eligible for an immediate service retirement allowance as provided in KRS 161.600, no withdrawal and refund shall be permitted, unless the allowance would prohibit the member from qualifying for Social Security benefits or the member elects to withdraw part or all of his service for the purpose of obtaining credit in another retirement plan. Requests for refund of contributions by the member must be filed on forms prescribed by the Teachers' Retirement System and the employer shall be financially responsible for all information that is certified on the prescribed form. ***A member may not withdraw any part of his or her contributions to the retirement system except as provided by this subsection.***

(7) Except as provided in KRS 161.520 and 161.525, in case of death prior to retirement, the board of trustees shall pay to the estate of the deceased member***, unless a beneficiary was otherwise applicably designated by the deceased member, then to the beneficiary,***[~~or to his assigns~~] all of his accumulated contributions, with regular interest, including any payments made by the member to the state accumulation fund, but the estate or ***beneficiary***[~~assigns~~] shall have no claim on any contributions made by the state with a view to the retirement of the member or to contributions made to the medical insurance fund.

(8) Any active contributing member of the Kentucky Employees Retirement System, the County Employees Retirement System, the State Police Retirement System, or the Judicial Retirement System may use service, under that retirement system for the purpose of meeting the service requirement of subsections (3) and (4) of this section.

Section 12. KRS 161.480 is amended to read as follows:

Each person, upon becoming a member of the retirement system, shall file a detailed statement as required by the board of trustees and shall designate a ***primary*** beneficiary to receive any benefits accruing from the death of the member. ***A contingent beneficiary may be designated in addition to the primary beneficiary. Any beneficiary designation made by the member***[~~This designation~~] shall remain in effect until changed by the member on forms prescribed by the Kentucky Teachers' Retirement System, except ***in the event of***[~~that~~] subsequent marriage or divorce***.*** ***Subsequent marriage*** by the member shall void the ***primary beneficiary*** designation and the spouse of the member at death shall be considered as ***the primary*** beneficiary[~~ in the event of subsequent~~

~~marriage, and the estate of the member shall be considered as beneficiary in the event of subsequent divorce]~~, unless the member subsequent to marriage~~[or divorce]~~ designates another beneficiary. ***A final divorce decree shall terminate an ex-spouse's status as either primary or contingent beneficiary, unless subsequent to divorce the member redesignates the former spouse as primary or contingent beneficiary. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of a member's contributions to the retirement system as provided under subsection (7) of Section 11 of this Act and KRS 161.650, and for receipt of the life insurance benefit provided under Section 30 of this Act.*** The provisions of this section shall be retroactive as they relate to election of beneficiaries by members still in active status on the effective date of this section.

Section 13. KRS 161.507 is amended to read as follows:

(1) An active contributing member of the Teachers' Retirement System may receive service credit for active service rendered in the uniformed services of the Armed Forces of the United States, including the commissioned corps of the Public Health Service, subject to the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 and to administrative regulations promulgated by the board of trustees. Military service includes service in the uniformed services that occurs before the employment of a member in a position covered by the retirement system or where a member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services. Service in the uniformed services also includes uniformed service that occurs after employment in a position covered by the retirement system where the member has given advance written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment. Military service may be credited only if discharge was honorable or was not terminated upon the occurrence of any of the events listed in 38 U.S.C. sec. 4304. Service shall be considered as Kentucky teaching service, except that service may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1) unless the service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returned directly from uniformed services to covered employment. A maximum of six (6) years of military service may be credited, but in no case a greater number of years than the actual years of contributing service in Kentucky.

(2) No credit shall be granted for military service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

(3) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on this military service, may not receive credit for any military service in the Teachers' Retirement System. This subsection shall apply to service presented for credit on July 1, 1975, and after this date.

(4) (a) A member receiving retirement credit for active duty in the armed services of the United States prior to employment in a position covered by the retirement system or where the member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services shall ***pay to the retirement system the full actuarial cost of the service credit purchased as provided under subsection (22) of Section 3 of this Act***~~[contribute to the retirement system an amount equal to thirty five percent (35%) of the actuarial cost for each year of service for which the member is receiving credit]~~. Two percent (2%) of the~~[thirty-five percent (35%)]~~ required payment shall be allocated to the medical insurance fund. These contributions shall not be picked up, as described in KRS 161.540(2). In purchasing retirement credit for active duty in the armed services, the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting this service.

(b) If military service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment, the member shall contribute the regular member contribution required by KRS 161.540. The member may make the payment of delayed contributions in a lump sum payment or in installments not to exceed five (5) years beginning with the member's date of reemployment. Interest at the rate of eight percent (8%) per annum shall be charged for delayed contributions beginning with the member's date of reemployment until paid.

(5) An active contributing member of the Teachers' Retirement System may receive service credit for service in the military reserves of the United States or the National Guard. The member may purchase one (1) month of service for each six (6) months of service in the reserves or the National Guard. Notwithstanding any other statute, regulation, or policy to the contrary, the system shall provide a member, upon request, the estimated actuarial cost of the National Guard or military reserves service purchase based upon the information available at the time of the request. The member shall be entitled to enter into a contract with the system at the time of the request to purchase the National Guard or military reserve service by paying to the system the estimated actuarial cost, either by installments or in lump sum. The member shall pay the full actuarial cost of this service in the military reserves or the National Guard as provided in KRS 161.220(22). Service in the military reserves or the National Guard shall be treated as service earned prior to participation in the system and shall not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). The payment shall not be picked up by the employer, as described in KRS 161.540(2).

Section 14. KRS 161.515 is amended to read as follows:

(1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position, which

would be covered if in Kentucky.

(2) (a) ***An active contributing member***[~~A member in active status~~] who has been a contributing member of the retirement system for at least one (1) full scholastic year subsequent to the latest out-of-state service, may present for credit service rendered out of state, not to exceed ten (10) years actually taught as a certified or licensed teacher. With the exception of university faculty members, all members who elect to purchase this service shall pay to the retirement system an amount equal to the current member contribution rate based on the first Kentucky salary of the member subsequent to the out-of-state service, provided this service was rendered after ***June 30, 1983***[~~January 1, 1984~~]. In the event this service was rendered prior to ***July 1, 1983***[~~January 1, 1984~~], the contribution rate shall be seven and eighty-four hundredths percent (7.84%). University faculty members shall pay on a contribution rate of seven and eighty-four hundredths percent (7.84%) based on the first Kentucky salary subsequent to the out-of-state service, regardless of when the service was rendered. ***Members shall pay to the retirement system the employer contribution at the rates set forth in Section 20 of this Act.*** In addition, all members shall pay interest on the contributions for this service at a rate to be set by the board of trustees on each annual contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. The payments shall not be picked up as described in KRS 161.540(2). For each year of which the retirement system shall accept the contribution and interest, one (1) year of service credit shall be given. This credit may not be used to meet the service requirements of KRS 161.525, 161.600, or 161.661, except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds;

(b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the Teachers' Retirement System of the State of Kentucky, may present this service for credit in the retirement system on the same basis as provided above for out-of-state service credit; however, no service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by a public institution or governmental agency. This service when added to service credited under subsection (2)(a) of this section shall not exceed a total of ten (10) years' service credit; and

(c) A member having service referred to in subsection (2)(a) or (2)(b) of this section may elect to use this service for meeting the requirements of KRS 161.600(1)(c) by making an additional contribution to the state accumulation fund equal to a member contribution rate of eight percent (8%) for each year so used. These payments shall not be picked up as described in KRS 161.540(2). The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.

(3) Members entering the Teachers' Retirement System for the first time, July 1, 1976, and after this date, shall not receive credit for service defined in subsections (2)(a) or (2)(b) of this section in excess of one (1) year of credit for each two (2) years of Kentucky service in a covered position or ten (10) years, whichever is the lesser number.

(4) A member, having completed service as a volunteer in the Kentucky Peace Corps created by KRS 154.01-720, may purchase service credit for the time served in the corps on the same basis as provided in this section for the purchase of out-of-state service credit. A member, having completed service as a federal Peace Corps volunteer, may purchase up to two (2) years of service credit for time served in the Peace Corps on the same basis as provided in this section for the purchase of out-of-state service credit.

Section 15. KRS 161.522 is amended to read as follows:

Upon the death of a member retired for disability who had a minimum of twenty-seven (27) years of service at the time of death, except as provided in KRS 161.661(6), the spouse, if named as the beneficiary of the member's account, shall be entitled to elect, in lieu of a refund of the member's account, an annuity actuarially equivalent to the annuity that would have been paid to the deceased member had retirement for service been effective on the day immediately preceding the member's death. In selecting this right, the spouse shall be limited to selecting an option providing a straight life annuity with refundable balance or a term certain option. There shall be a monthly minimum allowance of three hundred dollars ($300) as the basic straight life annuity. This section applies to surviving spouses of members who were receiving benefit payments under KRS 161.520 as of June 30, 1988, and to surviving spouses of members who die on or after July 1, 1984***, except that the member shall have been retired for disability with a minimum of thirty (30) years of service if either of these two (2) conditions were met prior to July 1, 1990***.

Section 16. KRS 161.540 is amended to read as follows:

(1) Effective July 1, 1988, each member shall contribute to the retirement system nine and eight hundred fifty-five thousandths percent (9.855%) of annual compensation, except that university faculty members shall contribute eight and three hundred seventy-five thousandths percent (8.375%) of annual compensation. Payments authorized by statute that are made to retiring members for not more than sixty (60) days of unused accrued annual leave shall be considered as part of the member's annual compensation, and shall be used only for the member's final year of active service. The contribution of members shall not exceed these applicable percentages on annual compensation. When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance. In the event a member is awarded a court-ordered back salary payment the employer shall deduct

and remit the member contribution on the salary payment, plus interest to be paid by the employer, to the retirement system unless otherwise specified by the court order.

(2) Each public board, institution, or agency, listed in KRS 161.220(4) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the ***member***[~~employee~~] contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). The picked-up ***member***[~~employee~~] contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the ***member***[~~employee~~] contribution, and the picked-up ***member***[~~employee~~] contribution shall be in lieu of ***a member***[~~an employee~~] contribution. Each employer shall pay these picked-up ***member***[~~employee~~] contributions from the same source of funds which is used to pay earnings to the ***member***[~~employee~~]. The ***member***[~~employee~~] shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. ***Member***[~~Employee~~] contributions picked-up after August 1, 1982, shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as ***member***[~~employee~~] contributions made prior to August 1, 1982.

Section 17. KRS 161.545 is amended to read as follows:

(1) Members may make contributions and receive service credit for substitute, part-time, or any service other than regular full-time teaching as provided in the administrative regulations of the board of trustees ***if contributions were not otherwise made as a result of the service***. Members placed on leave of absence may make contributions and receive service credit for this leave only if contributions are made by the end of the fiscal year next succeeding the year in which the leave was effective as provided in administrative regulations promulgated by the board of trustees. Contributions permitted after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).

(2) Active contributing members of the Teachers' Retirement System, or former members who are currently participating in a state-administered retirement system, who were granted leaves of absence since July 1, 1964, for reasons of health, child rearing, or to improve their educational qualifications, and did not qualify at the time of the leave of absence to make contributions to the retirement system for the leave of absence as provided in subsection (1) of this section, may obtain credit for the leave of absence under the following conditions:

(a) The leave of absence shall be verified by a copy of the board of education minutes which granted the leave of absence; and

(b) The member shall contribute the required percentage based on the salary received for the year immediately preceding the leave of absence plus interest at the rate of eight percent (8%) compounded annually from the beginning of the school year following the year of the leave of absence, and by depositing in the state accumulation fund an amount equal to this total.

(c) The member shall receive credit for no more than two (2) years under the provisions of this subsection.

(3)[~~Active contributing members who had breaks in their participation in the retirement system for reasons of health or for the purpose of obtaining Rank I status, a master's degree in education, or a doctorate degree in education and did not qualify at the time of the absence to obtain credit for the absence, may qualify to obtain credit for the absence under the following conditions:~~

~~(a) The period of a qualified absence shall be substantiated and verified in a manner required by the board of trustees;~~

~~(b) The member shall receive credit for no more than two (2) years of service under the provisions of this subsection;~~

~~(c) The member shall contribute the required percentage based on the salary received the year immediately preceding the qualified absence plus interest at the rate of eight percent (8%) compounded annually from the beginning of the school year following the year of the absence, and by depositing an amount equal to this total in the state accumulation fund; and~~

~~(d) Credit for service obtained under this subsection shall be purchased prior to July 1, 1997.~~

~~(4)~~] Contributions permitted under this section after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).

Section 18. KRS 161.5461 is amended to read as follows:

(1) Any active contributing member may purchase service credit as authorized under KRS Chapter 161 by rolling over funds from a previous plan[~~ qualified under Section 401(a) or 401(k) of the Internal Revenue Code~~] to the extent that rollovers are permitted by the rules set forth in the Internal Revenue Code. The rollovers may be made directly from a previous qualified plan or through a conduit individual retirement account as permitted by the rules set forth in the Internal Revenue Code.

(2) Any active contributing member may purchase service credit as authorized under KRS Chapter 161 by transferring funds directly from a retirement plan maintained by the Commonwealth of Kentucky[~~ and qualified under Section 401(a) or 401(k) of the Internal Revenue Code,~~] to the extent that transfers are permitted by the rules set forth in the Internal Revenue Code.

(3) The amount of any transfer or rollover purchase as permitted under subsections (1) and (2) of this section, excluding that portion credited to the medical insurance fund under KRS 161.420(5), shall be credited to the individual member's account and shall be considered accumulated contributions of the member.

Section 19. KRS 161.5465 is amended to read as follows:

On or after August 1, 1998, a member of the Teachers' Retirement System in active contributing status who has a minimum of twenty (20) years of service credit may purchase up to a maximum of five (5) years of service credit that is not otherwise purchasable under any of the provisions of KRS 161.230 to 161.716 and that meets the definition of nonqualified service as provided in Section 1526 of the Federal Taxpayer Relief Act of 1997. The member shall pay the full actuarial cost of the service credit as provided in KRS 161.220(22). The payment shall not be picked up by the employer as described in KRS 161.540(2), and the member's payment shall be credited to the member's contribution account and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by installment payments as provided in KRS 161.597. ***Notwithstanding any other statute to the contrary, the Kentucky Teachers' Retirement System shall recognize nonqualified service credit purchased with another retirement system only to the extent that the member had an equivalent number of full months of active employment in the position covered by the other retirement system during the period that the nonqualified service was purchased.***

Section 20. KRS 161.550 is amended to read as follows:

Beginning with July 1, each employer, except as provided under KRS 161.555, shall contribute annually to the retirement system a permanent amount equal to that contributed by[~~ its employees who are~~] members of the retirement system ***it employs*** plus an additional three and one-fourths percent (3.25%) of the total of salaries of[~~ its employees who are~~] members of the retirement system ***it employs*** to discharge the system's unfunded obligations with interest assumed by the state and to provide funding to the medical insurance fund as provided under KRS 161.420(5). Each employer shall remit the required employer contributions to the retirement system under the terms and conditions specified for member contributions under KRS 161.560. The state shall provide annual appropriations based upon estimated funds needed to meet the requirements of KRS 161.155; 161.507(4); 161.515; 161.545; ***Section 25 of this Act,*** 161.620(1), (3), (5), (6), and (7); ***Section 1 of this Act;*** and 161.553. In the event an annual appropriation is less than the amount of these requirements, the state shall make up the deficit in the next biennium budget appropriation to the retirement system. Employer contributions to the retirement system are for the exclusive purpose of providing benefits to members and annuitants and these contributions shall be considered deferred compensation to the members.

Section 21. KRS 161.553 is amended to read as follows:

(1) The cost of providing statutory benefit improvements for annuitants may be funded by annual appropriations from the state on an actuarial amortized basis over the lifetime of the annuitants. The schedules in subsections (1)(a), (1)(b), and (1)(c) of this section are the annual appropriations which shall be made by the state for benefit improvements approved in the respective fiscal years or bienniums prior to July 1, ***2004***[~~2002~~]:

(a)	Cost of Living Allowance	***2002-2003***[~~2000-2001~~]	Each Succeeding Fiscal Year
[	~~1986-1988~~	~~$4,465,400~~	~~$2,331,300 in 2001-2002~~]
	1988-1990	$5,761,700	[~~$5,761,700 through 2002-2003 and~~] $2,972,700 in 2003-2004
	1990-1992	$4,901,700	$4,901,700 through 2004-2005 and $2,486,800 in 2005-2006
	1992-1994	$2,229,400	$2,229,400 through 2006-2007 and $1,125,700 in 2007-2008
	1994-1996	$6,142,000	$6,142,000 through 2010-2011
	1996-1998	$4,459,000	$4,459,000 through 2010-2011
	1998-2000	$15,333,900	$15,333,900 through 2012-2013 and $7,938,600 through 2013-2014
	2000-2002	***$12,511,400***[~~$2,311,500~~	~~$6,132,100 through 2001-2002 and~~] $12,511,400 through 2014-2015 and $7,227,700 in 2015-2016

	2002-2004	***$10,201,600***	***$21,405,700 through 2021-2022*** ***and*** ***$11,204,100 through 2022-2023***
(b)	Minimum Value ***2002-2003***[~~2000-2001~~] Annuities		Each Succeeding Fiscal Year
[	~~1986-1988~~	~~$1,227,000~~	~~$1,020,400 in 2001-2002~~]
	1988-1990	$1,718,200	[~~$1,718,200 through 2002-2003 and~~] $879,500 in 2003-2004
	1990-1992	$2,246,900	$2,246,900 through 2004-2005 and $1,232,100 in 2005-2006
	1992-1994	$2,217,700	$2,217,700 through 2006-2007
	1994-1996	$2,126,000	$2,126,000 through 2008-2009
	2002-2004	***$1,348,100***	***$3,375,900 through 2016-2017*** ***and*** ***$2,027,800 through 2017-2018***
(c)	Sick Leave ***2002-2003***[~~2000-2001~~] Allowance		Each Succeeding Fiscal Year
	1998-2000 ***$4,660,300***	[~~$5,140,000~~]	***$4,660,300***[~~$5,140,000~~] through 2012-2013 and ***$2,425,900***[~~$2,905,600~~] through 2013-2014
	2000-2002 ***$6,167,100***	[~~$3,698,800~~]	***$6,167,100***[~~$7,886,400~~] through 2014-2015 and ***$3,579,100***[~~$4,187,600~~] in 2015-2016
	2002-2004	***$3,668,400***	***$7,636,700 through 2021-2022*** ***and*** ***$3,968,300 through 2022-2023***

(2) The present values of providing statutory cost-of-living increases for annuitants not included in subsection (1) of this section are to be assigned to the unfunded obligations of the retirement system and are identified as follows:

1986-1988	$34,689,893
1990-1992	$68,107,473
1992-1994	$15,749,976

Section 22. KRS 161.555 is amended to read as follows:

Each employer employing members of the Teachers' Retirement System in positions established under educational acts adopted by the federal Congress shall contribute to the Teachers' Retirement System an amount equal to ***the employer contribution provided under Section 20 of this Act***[~~that contributed by the members of that employer~~].

Section 23. KRS 161.560 is amended to read as follows:

(1) Each agency employing members of the retirement system shall deduct from the compensation of each member for each payroll period subsequent to the date the ***individual***[~~teacher~~] became a member, the percentage of his compensation due under the rates prescribed in KRS 161.540. No later than fifteen (15) days following the end of each payroll period, the agency shall forward all amounts deducted to the Teachers' Retirement System. The retirement system shall charge the employing agency interest at an annual rate not to exceed twelve percent (12%) for deductions not remitted within the specified fifteen (15) days. Payroll reports, contributions lists, and other data required by administrative regulation of the board of trustees shall be submitted. Employers shall submit an annual report, in compliance with requirements of the retirement system, of ***member***[~~teacher~~] contributions and periods employed to the retirement system no later than August 1 following the completion of each fiscal year. The retirement system may impose a penalty on the employer not to exceed one thousand dollars ($1,000) when the employer does not meet the August 1 reporting date. The deductions shall be made

notwithstanding the fact that the salary as a result may be less than the minimum compensation provided by law. Every member shall be deemed to consent and agree to the deductions, and the deductions shall be considered as having been paid to the member. After August 1, 1982, ***member***[~~employee~~] contributions shall be picked up by the agency pursuant to KRS 161.540(2).

(2) If an employer fails to deduct the correct retirement contribution from a member's compensation, the member may make the contribution that should have been deducted by the employer and receive retirement credit for the payment. For correction of omitted member contributions that occur more than one (1) year after the year in which the error was made, the employer shall be responsible for paying interest to the retirement system at a rate of eight percent (8%) from the end of the year in which the service was performed to the date of payment.

Section 24. KRS 161.603 is amended to read as follows:

(1) Any member retired by reason of service may waive his annuity and return to ***full-time***[~~regular~~] employment in a position covered by the Teachers' Retirement System. The member shall receive no annuity payments while employed in a covered position, ***shall waive his or her medical insurance coverage with the Kentucky Teachers' Retirement System during the period of reemployment, and shall receive the medical insurance coverage that is generally offered by the member's active employer to the other members of the retirement system employed by the active employer. The member's***[~~but shall continue to be covered by the system's hospital and medical insurance program and his~~] estate ***or, if there is a beneficiary applicably designated by the member, then the beneficiary,*** shall continue to be eligible for ***life insurance***[~~death~~] benefits as provided in KRS 161.655. Service subsequent to retirement shall not be used to improve an annuity, except as provided in subsections (2) and (3) of this section.

(2) Any member who waives regular annuity benefits and returns to teaching or covered employment shall be entitled to make contributions on the salaries received for this service and have their retirement annuity recalculated as provided in the regular retirement formula in KRS 161.620(1) less any applicable actuarial discount applied to the original retirement allowance due to the election of a joint and last survivor option. Retirement option and beneficiary designation on original retirement shall not be altered by post-retirement employment nor shall dependents and spouses of the members become eligible for benefits under KRS 161.520, 161.525, and 161.661 because of post-retirement employment.

(3) When a member returns to full-time teaching or covered employment as provided in subsection (2) of this section, the employer is required to withhold and remit regular retirement contributions. The member must be employed full-time for at least one (1) consecutive contract year to be eligible to improve an annuity. The member will be returned to the annuity rolls on July 1 following completion of the contract year or on the first day of the month following the month of termination of service if full-time employment exceeds one (1) consecutive contract year. Any discounts applied at the time of the original retirement due to service or age may be reduced or eliminated due to additional employment if full-time employment is for one (1) contract consecutive year or longer.

(4) A member retired by reason of service who has been employed the equivalent of twenty-five (25) days or more during a school year under the provisions of KRS 161.605 may waive the member's retirement annuity and return to regular employment covered by the Teachers' Retirement System during that school year a maximum of one (1) time during any five (5) year period, beginning with that school year.

Section 25. KRS 161.605 is amended to read as follows:

Any member retired by reason of service may return to work in a position covered by the Kentucky Teachers' Retirement System and continue to receive his or her retirement allowance under the following conditions:

(1) ***Any member who is retired with thirty (30) or more years of service may return to work in a full-time or a part-time position covered by the Kentucky Teachers' Retirement System and earn up to a maximum of seventy-five percent (75%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is seventy-five percent (75%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, shall be considered. Members who were retired on or before June 30, 2002, shall be entitled to return to work under the provisions of this section as if they had retired with thirty (30) years of service. Service credit purchased under the provisions of Section 19 of this Act may not be used to meet the thirty (30) year requirement set forth in this subsection.***

(2) Any member who is retired with less than thirty (30) years of service after June 30, 2002, may return to work in a full-time or part-time position covered by the Kentucky Teachers' Retirement System and earn up to a maximum of sixty-five percent (65%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is sixty-five percent (65%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, shall be considered.

(3) Reemployment of a retired member under subsection (1) or (2) of this section in a full-time teaching or nonteaching position in a local school district shall be permitted only if the employer certifies to the Kentucky Teachers' Retirement System that there are no other qualified applicants available to fill the teaching or nonteaching position. The employer may use any source considered reliable including but not limited to data provided by the Education Professional Standards Board and the Department of Education to determine whether other qualified applicants are available to fill

the teaching or nonteaching position. The Kentucky Board of Education shall promulgate administrative regulations to establish procedures to determine whether other qualified applicants are available to fill a teaching or nonteaching position and, if not, for filling the position with a retired member who will then be permitted to return to work in that position under subsection (1) or (2) of this section. The administrative regulations shall assure that a retired member shall not be hired in a teaching or nonteaching position by a local school district until the superintendent of the school district assures the Kentucky Teachers' Retirement System that every reasonable effort has been made to recruit other qualified applicants for the position on an annual basis.

(4) Under this section, an employer may employ full-time a number of retired members not to exceed four percent (4%) of the membership actively employed full-time by that employer. The board of trustees may reduce this four percent (4%) cap upon recommendation of the retirement system's actuary if a reduction is necessary to maintain the actuarial soundness of the retirement system. The board of trustees may increase the four percent (4%) cap upon a determination that an increase is warranted to help address a shortage in the number of available teachers and upon the determination of the retirement system's actuary that the proposed cap increase allows the actuarial soundness of the retirement system to be maintained. For purposes of this subsection, "full-time" means the same as defined by subsection (21) of Section 3 of this Act. A local school district may exceed the quota established by this subsection by making an annual written request to the Kentucky Department of Education which the department may approve on a year-by-year basis if the statewide quota has not been met.

(5) A member returning to work in a full-time or part-time position under subsection (1) or (2) of this section will establish a second account with the retirement system that will be administered independently from and with no reciprocal impact with the member's original retirement account. A member returning to work under subsection (1) or (2) of this section shall make contributions to the retirement system at the rate provided under Section 16 of this Act. The second account shall independently meet the five (5) year vesting requirement as well as all other conditions set forth in KRS 161.600(1) before any retirement allowance is payable from this account. The retirement allowance accruing under this second account shall be calculated pursuant to subsection (1)(b) of Section 28 of this Act. This second account shall not entitle the member to a duplication of the benefits offered under Section 30 or 33 of this Act, nor shall this second account provide the benefits offered by KRS 161.520, 161.525, Section 31 of this Act, or Section 32 of this Act. A member returning to work under subsection (1) or (2) of this section shall waive his or her medical insurance with the Kentucky Teachers' Retirement System during the period of reemployment and shall receive the medical insurance coverage that is generally provided by the member's active employer to the other members of the retirement system that the active employer employs. If medical insurance coverage is not available from the employer, the Kentucky Teachers' Retirement System may provide coverage for the member. A member returning to work under subsection (1) or (2) of this section shall not be eligible to purchase service credit for any service provided after the member's effective date of retirement but prior to the date that the member returns to work. A member returning to work under subsection (1) or (2) of this section shall not be eligible to purchase service credit that the member would have otherwise been eligible to purchase prior to the member's initial retirement. A member who returns to work under subsection (1) or (2) of this section, or in the event of the death of the member, the member's estate or applicably designated beneficiary, shall be entitled, within ninety (90) days of the posting of the annual report submitted by the employer, to a refund of contributions as permitted and limited by Section 11 of this Act.

(6) The board of trustees may annually adjust the daily rate of a member's last annual compensation, for each year that the member has been retired for a full twelve (12) month period, by the percentage increase in the annual average of the consumer price index for all urban consumers for the calendar year preceding the adjustment as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%) annually. Failure to comply with the salary limitations set forth in subsections (1) and (2) of this section as may be adjusted by this subsection shall result in a reduction of the member's retirement allowance or any other benefit to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar that the member exceeds these salary limitations.

(7) A retired member returning to work under subsection (1) or (2) of this section shall have separated from service for a period of at least one (1) year if returning to work for the same employer on a full-time basis, and at least three (3) months if returning to work for a different employer on a full-time basis. A retired member returning to work under subsection (1) or (2) of this section on a part-time basis shall have separated from service for a period of at least three (3) months before returning to work for any employer. Failure to comply with these separation-from-service requirements voids a member's retirement and the member shall be required to return all the retirement benefits he or she received, with interest, for the period of time that the member returned to work without a sufficient separation from service.

(8) Members who retired on or before June 30, 2002 may, for the fiscal year concluding on June 30, 2003, be reemployed under the one hundred (100) day provisions of this section as they existed on June 30, 2002, except that members returning to work under those provisions shall make contributions to the Kentucky Teachers' Retirement System at the rate provided under Section 16 of this Act and members' employers shall make contributions to the Kentucky Teachers' Retirement System at the rates specified under Section 20 of this Act. Those members returning to work under the one hundred (100) day provisions of this section as they existed on June 30, 2002, shall further waive their medical insurance coverage with the retirement system during the period of reemployment and will instead receive the medical insurance coverage generally provided by their active employer to other members of the retirement system that

the active employer employs. If medical insurance coverage is not available from the employer, the Kentucky Teachers' Retirement System may provide coverage for the member. Notwithstanding any other statute to the contrary, retired members returning to work shall under no circumstances be permitted to purchase as service credit service provided under the one hundred (100) day provisions of this section as they existed on June 30, 2002.[~~Retired members may perform substitute teaching in the public schools for the equivalent of one hundred (100) days in any one (1) school year and receive compensation based on a standard salary schedule adopted by a district for all substitute teachers without reduction in retirement annuities~~].

[~~(2) A retired member may be employed as a part-time or temporary teacher in the public schools for a period not to exceed the equivalent of one hundred (100) days in any one (1) school year.~~

~~(3) Retired members may be employed part-time or temporarily in a nonteaching capacity in the public schools and receive compensation for this employment without reduction in retirement annuities, except that retired members may not be employed in excess of a one hundred (100) day period in any one (1) school year~~]

(9) The return to work limitations set forth in this section and Section 24 of this Act shall apply to retired members who are returning to work in the same position from which they retired, or a position substantially similar to the one from which they retired, or any position listed in KRS 161.220(4) which requires membership in the retirement system. Positions which generally require certification or graduation from a four (4) year college or university as a condition of employment which are created, or changed to remove the position from coverage under KRS 161.220(4) are also subject to the ***return to work limitations set forth in this section and Section 24 of this Act***[~~one hundred (100) day limitation in this subsection~~]. The board of trustees shall determine ***whether***[~~if~~] employment in a nonteaching position ***is subject to***[~~qualifies for an exemption under~~] this subsection.

(10) The provisions of subsections (1) to (8) of this section are not subject to KRS 161.714.

(11)[~~(4)~~] Members retired from an agency listed in KRS 161.220(4)(b) ***or (n)*** may be employed in a part-time teaching capacity by one (1) of the universities ***or community colleges*** participating in the Teachers' Retirement System, not to exceed the equivalent of twelve (12) teaching hours in any one (1) fiscal year. ***Members retired from an agency listed in subsection (4)(b) or (n) of Section 3 of this Act may be employed for a period not to exceed the equivalent of one hundred (100) days in any one (1) fiscal year in a part-time administrative or nonteaching capacity by one (1) of the universities or community colleges participating in the Teachers' Retirement System in a position that would otherwise be covered by the retirement system. None of these members shall be subject to the return to work provisions set forth in subsections (1) to (8) of this section.***

[~~(5)~~] Calculation of the number of days for part-time teaching, substitute teaching, or part-time employment in a nonteaching capacity under this section shall not exceed the ratio between a school year and the actual months of retirement for the member during that school year. The board of trustees by administrative regulation may establish fractional equivalents of a day of teaching service.

(12)[~~(6)~~] When a retired member returns to employment ***in***[~~as~~] a part-time ***teaching capacity***[~~teacher~~] or in a nonteaching capacity as provided in ***subsection (11)***[~~subsections (2), (3), and (4)~~] of this section, the employer shall contribute annually to the retirement system on the compensation paid to the retired member at rates determined by the retirement system actuary that reflect accrued liability for ***retired members who return to work under subsection (11) of this section***[~~nonuniversity and university members.~~

~~(7) The board of trustees shall provide for reemployment of retired members as full-time teachers or in a nonteaching capacity under the following conditions:~~

~~(a) A retired teacher or administrator may return to full time teaching in a position that has been determined by the commissioner of education to be a critical shortage area as defined in KRS 156.106 and for which the person is certified. When the commissioner of education certifies to the retirement system that qualified applicants are not available to fill teaching or administrative positions in critical academic subject areas, grade levels, or geographic areas, local school districts may employ, as full time employees, during a school fiscal year, up to a maximum of two (2) retired members, or one percent (1%) of the total active members of the retirement system in a school district, whichever is greater. Retired members who are reemployed in a full-time position covered by the retirement system shall be rehired on a one (1) year contract in a district other than the one from which they retired following an absence of at least three (3) months or in the same district from which they retired following an absence of at least one (1) year.~~

~~(b) Retired members reemployed under this subsection shall remain eligible to receive their retirement annuity.~~

~~(c) Retired members reemployed under this subsection shall waive their health insurance coverage with the retirement system during the period of reemployment and receive health insurance coverage that is provided to regular full-time employees of the district.~~

~~(d) Local school districts shall make annual payments to the retirement system on the compensation paid to the reemployed retirees at rates determined by the retirement system's actuary that reflect accrued liability for nonuniversity members.~~

~~(e) Retirees who are reemployed under this provision shall make retirement contributions to the retirement system at~~

~~rates specified under KRS 161.540 and the employer shall make contributions to the retirement system at rates specified under KRS 161.550. The member's entire contribution and a matching amount from the employer's contribution shall be placed in a separate defined contribution fund administered by the retirement system, with annual interest applied at the actuarially assumed rate. When the retiree's reemployment terminates, the total contributions with interest will be paid in a lump sum or on a monthly straight life basis to the retiree. If the member dies before retiring, the designated beneficiary shall receive a refund, and if there is a remaining balance at the death of the member after retirement, it shall be paid to the beneficiary designated by the member for this benefit.~~

~~(f) The provisions pertaining to the reemployment of retired members as full-time employees shall be granted by the board of trustees when it is deemed necessary to assist school districts in filling teaching or nonteaching positions in critical academic or geographic areas and when doing so would not create a significant negative impact on the funding status of the retirement system. The provisions of this subsection are optional with the board of trustees and shall not be covered under KRS 161.714]~~.

Section 26. KRS 161.611 is amended to read as follows:

(1) The board of trustees is authorized to provide a supplemental retirement benefit plan for the sole purpose of enabling the employer to apply the same formula for determining benefits payable to all ***members of***~~[employees covered by]~~ the retirement system ***employed by the employer***, whose benefits under the retirement system are limited by Section 415 of the Internal Revenue Code of 1986, as amended from time to time. This plan is intended to constitute a qualified governmental excess benefit plan as described in Section 415 of the Internal Revenue Code.

(2) The board of trustees shall administer this plan and have full discretionary fiduciary authority to determine all questions in connection with the plan. The board of trustees may adopt procedural rules and administrative regulations and may employ and rely on any legal counsel, actuaries, accountants, and agents as it deems advisable to assist in the administration of this plan.

(3) All members and retired former members in the retirement system shall be eligible to participate in this plan whenever their benefits under the retirement system would exceed the limitation on benefits imposed by Section 415 of the Internal Revenue Code.

(4) On or after the effective date of this plan, the employer shall pay to each eligible member in the retirement system who retires on or after that date and to each former member who retired before that date and his or her beneficiaries a supplemental pension benefit, equal to the amount by which the benefit that would have been payable under the retirement system, without regard to any provision therein incorporating the limitation on benefits imposed by Section 415 of the Internal Revenue Code, exceeds the benefit actually payable, taking into account the limitation imposed on the retirement system by Section 415 of the code. These supplemental pension benefits shall be computed and payable under the same terms and conditions and to the same person as the benefits payable to, or on account of, an eligible member under the retirement system.

(5) Benefits payable under this plan shall not be subject to the dollar limit applicable to eligible deferred compensation plans under Section 457 of the Internal Revenue Code, nor to the "substantial risk or forfeiture" rules of Section 457(f) of the code applicable to ineligible deferred compensation plans. In addition, benefits payable under this plan shall not be taken into account in determining whether any other plan of the employer is an eligible deferred compensation plan under Section 457 of the code.

(6) Funding of benefits payable under this plan shall be provided by the state, as employer, and shall be segregated from funds that are maintained by the retirement system for payment of the regular benefits provided by the retirement system. The employer may establish a grantor trust for payment of benefits provided under this plan, with the employer treated as "grantor" thereof for purposes of Section 677 of the Internal Revenue Code. The rights of any person to receive benefits under this plan are limited to those of a general creditor of the employer.

Section 27. KRS 161.615 is amended to read as follows:

(1) The board of trustees is authorized to implement a limited defined contribution plan for the sole purpose of providing retirement allowance payments for retired members who have been approved by the retirement system for full-time reemployment as provided in KRS 161.605.

(2) The defined contribution plan shall be administered separately from the regular benefits provided for members of the retirement system, except that the contributions to the plan shall be invested in the same manner as other contributions to the retirement system.

(3) ***The provisions of this section apply only to those retired members who were permitted to return to work under the critical shortage provisions of KRS 161.605(7) as they existed on June 30, 2002. The provisions of this section shall not apply to any retired member returning to work on or after July 1, 2002***~~[All retired members of the retirement system who are approved by the retirement system for full-time reemployment as provided in KRS 161.605 shall be eligible to participate in the plan]~~.

(4) Separate member accounts shall be maintained for participants in this plan which shall reflect the annual contributions made to the participant's account based on the rates and interest levels specified in KRS 161.605.

(5) When the retiree's reemployment terminates, the total contributions and accrued interest in the participant's account will be paid in a lump sum payment or on an actuarial straight life monthly basis to the retiree. If the member dies prior to making application for a retirement allowance under this plan, the beneficiary designated by the participant for this plan shall receive a refund of the funds in the account. If there is a remaining balance in the account at the death of the participant after retirement from this plan, it shall be paid to the beneficiary designated by the participant for this benefit.

(6) Retired members shall be eligible to receive their retirement annuity when approved for reemployment and participation in this plan. Service as a reemployed retiree may not be used in any manner for credit under the regular retirement benefit plans provided by the retirement system.

Section 28. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1998, and thereafter, ***except as otherwise provided by this section,*** the annual allowance for each year of service shall be two percent (2%) of the final average salary for service performed prior to July 1, 1983, and two and one-half percent (2.5%) of the final average salary for service performed after July 1, 1983, for all members not employed by a state college or university. The annual retirement allowance for each year of service performed ***by members of***[~~at state colleges or universities that participate in~~] the Teachers' Retirement System ***who are members under the provisions of subsection (4)(b) or (n) of Section 3 of this Act*** shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section; and

(b) ***For individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2002, except those persons who become members under subsection (4)(b) or (n) of Section 3 of this Act, and who upon retirement have earned less than ten (10) full years of service credit, the retirement allowance shall be two percent (2%) of the member's final average salary for each year of service. For individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2002, except those persons who become members under subsection (4)(b) or (n) of Section 3 of this Act, and who upon retirement have earned at least ten (10) full years of service credit, the annual allowance for each year of service shall be two and one-half percent (2.5%) of the member's final average salary.***

(c) ***The board of trustees may approve for members who initially retire on or after July 1, 2004, except those persons who are members under subsection (4)(b) or (n) of Section 3 of this Act, a retirement allowance of three percent (3%) of the member's final average salary for each year of service credit earned in excess of thirty (30) years. This three percent (3%) factor shall be in lieu of the two and one-half percent (2.5%) factor provided for in paragraph (b) of this subsection for every year or fraction of a year of service in excess of thirty (30) years. Upon approval of this three percent (3%) retirement factor, the board of trustees may establish conditions of eligibility regarding the type of service credit that will qualify for meeting the requirements of this subsection. This subsection is optional with the board of trustees and shall not be subject to KRS 161.714.***

(d) The retirement allowance of a member at retirement shall not exceed the member's last annual compensation or the member's final average salary, whichever is the greater amount.

(2) Effective July 1, ***2002***[~~1990~~], and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option[~~ who has been retired at least ten (10) months~~] shall be increased in the amount of one and one-half percent (1.5%)***, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase***.

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than ***four hundred dollars ($400) effective July 1, 2002, and not less than four hundred forty dollars ($440) effective July 1, 2003***[~~three hundred twenty-five dollars ($325) effective July 1, 2000, and three hundred thirty-five dollars ($335) effective July 1, 2001~~], multiplied by the service credit years of the member. These minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the effective dates listed in this subsection.

(4) The minimum retirement allowance provided in this section shall apply in the case of members retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the member and his beneficiary or beneficiaries as provided in the duly-adopted option tables at the time of the member's retirement.

(5) Effective July 1, ***2002***[~~2000~~], the monthly allowance of each ***retired*** member[~~ retired for at least one (1) year,~~] and each recipient of a retirement option of the retired member ***may***[~~shall~~] be increased in an amount not to exceed ***one and four-tenths percent (1.4%)***[~~eight tenths of one percent (0.8%)~~] of the monthly allowance in effect the previous month***, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by***

each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the ***2002-2004***[~~2000-2002~~] biennium budget appropriation.

(6) Effective July 1, ***2003***[~~2001~~], the monthly allowance of each ***retired*** member[~~ retired for at least one (1) year,~~] and each recipient of a retirement option of the retired member ***may***[~~shall~~] be increased in an amount not to exceed one ***and one-half*** percent ***(1.5%)***[~~(1.0%)~~] of the monthly allowance in effect the previous month***, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase***. The level of increase provided for in this subsection shall be determined by the funding provided in the ***2002-2004***[~~2000-2002~~] biennium budget appropriation.

(7) Effective July 1, 1990, monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental or physical condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of the child or until the time the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) Members of the Teachers' Retirement System shall be subject to the annuity income limitations imposed by Section 415 of the Internal Revenue Service Code[~~ as enacted in 1988~~].

(9) Compensation in excess of the limitations imposed by Section 401(a)(17) of the Internal Revenue Code shall not be used in determining a member's[~~ regular~~] retirement annuity[~~ but shall be used in determining retirement allowance payments under the supplemental retirement plan of the retirement system which is intended to constitute a qualified governmental excess benefit plan as provided in Section 415 of the Internal Revenue Code~~]. The limitation on compensation for eligible members shall not be less than the amount which was allowed to be taken into account by the retirement system in effect on July 1, 1993. For this purpose, an eligible member is an individual who was a member of the retirement system before the first plan year beginning after December 31, 1995.

Section 29. KRS 161.623 is amended to read as follows:

(1) Effective July 1, 1982, and thereafter, a district board of education or other employer of members of the Teachers' Retirement System may compensate, at the time of retirement for service, an active ***contributing member***[~~teacher~~] for unused sick-leave days in accordance with this section.

(2) Upon the member's application for service retirement, the employer shall certify the retiring member's unused accumulated sick-leave balance to the board of trustees of the Kentucky Teachers' Retirement System. The member's sick-leave balance, expressed in days, shall be divided by one hundred eighty-five (185) days to determine the amount of service credit that may be considered for addition to the member's retirement account for the purpose of determining the retirement allowance under KRS 161.620. Such sick-leave credit shall not be used for the purpose of determining whether the member is eligible to receive a retirement allowance[~~ under KRS 161.600~~].

(3) The board shall compute the cost to the retirement system of the sick-leave credit for each retiring member and shall bill the last employer of the retiring member for such cost. The employer shall pay the cost of such service credit to the retirement system within fifteen (15) days after receiving notification of the cost from the board.

(4) Retiring members who receive service credit under this section shall not be eligible to receive compensation for accrued sick leave under KRS 161.155(9) or any other statutory provision.

(5) Employer participation is optional and the employer may opt to purchase less service credit than the member is eligible to receive provided the same percentage of reduction is made applicable to all retiring members of the employer during a school fiscal year.

(6) The board of trustees shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions.

(7) Payments to the retirement system for service credit obtained under this section or for compensation credit obtained under KRS 161.155(9) shall be based on the full actuarial cost as defined in KRS 161.220(22).

Section 30. KRS 161.655 is amended to read as follows:

(1) Effective July 1, 2000, the Teachers' Retirement System shall provide a life insurance benefit in a minimum amount of five thousand dollars ($5,000) for its members who are retired for service or disability. This life insurance ***benefit***[~~policy~~] shall be payable upon the death of a member retired for service or disability to the member's estate or to a party designated by the member on a form prescribed by the retirement system. The Teachers' Retirement System shall provide a life insurance benefit in a minimum amount of two thousand dollars ($2,000) for its active contributing members. This life insurance ***benefit***[~~policy~~] shall be payable upon the death of an active contributing member to the member's estate or to a party designated by the member on a form prescribed by the retirement system. Application for payment of life insurance

proceeds shall be made to the Teachers' Retirement System together with acceptable evidence of death and eligibility. The reciprocal provisions of KRS 61.680(2)(a) shall not apply to the coverage and payment of proceeds by the life insurance benefit under this section.

(2) Suit or civil action shall not be required for the collection of the proceeds of the life insurance benefit provided for by this section, but nothing in this section shall prevent the maintenance of suit or civil action against the beneficiary or legal representative receiving the proceeds of the life insurance benefit.

Section 31. KRS 161.661 is amended to read as follows:

(1) Any member who has completed five (5) or more years of accredited service in the public schools of Kentucky after July 1, 1941, may retire for disability and be granted a disability allowance if found to be eligible as provided in this section. Application for disability benefits shall be made within one (1) year of the last contributing service in Kentucky, and the disability must have occurred during the most recent period of employment in a position covered by the Teachers' Retirement System and subsequent to the completion of five (5) years of teaching service in Kentucky. A disability occurring during the regular vacation immediately following the last period of active service in Kentucky or during an official leave for which the member is entitled to make regular contributions to the retirement system, shall be considered as having occurred during a period of active service. The annual disability allowance shall be equal to sixty percent (60%) of the member's final average salary***. Members with twenty-seven (27) or more years of service credit are eligible for service retirement only***[~~, except that a member retiring for disability who is also eligible for service retirement may elect to have the benefit calculated on the service retirement formula and may choose any of the retirement options provided for service retirement~~].

(2) The provisions of KRS 161.520, 161.525, and subsections (3), (4), and (5) of this section shall not apply to disability retirees whose benefits were calculated on the service retirement formula nor to survivors of these members.

(3) Members shall earn one (1) year of entitlement to disability retirement, at sixty percent (60%) of the member's final average salary, for each four (4) years of service in a covered position, but any member meeting the service requirement for disability retirement shall be credited with no less than five (5) years of eligibility.

(4) A member retired by reason of disability shall continue to earn service credit at the rate of one (1) year for each year retired for disability. This service shall be credited to the member's account at the expiration of entitlement as defined in subsection (3) of this section, or when the member's eligibility for disability benefits is terminated upon recommendation of a medical review committee, and this service shall be used in calculating benefits as provided in subsection (5) of this section***, but under no circumstances shall this service be used to provide the member with more than twenty-seven (27) years of total service credit***. The service credit shall be valued at the same level as service earned by active members ***as provided under KRS 161.600 and Section 28 of this Act***.

(5) Any member retired by reason of disability and remaining disabled at the expiration of the entitlement period shall have his disability benefits recalculated using the service retirement formula with service credit as set out in subsection (4) of this section. The retirement allowance shall be calculated as set forth in KRS 161.620, except that those persons less than sixty (60) years of age shall be considered as sixty (60) years of age. ***Members having their disability benefits recalculated under this subsection shall not be entitled to a benefit based upon an average of their three (3) highest salaries as set forth in subsection (9) of Section 3 of this Act, unless approved otherwise by the board of trustees.***

(6) Members who have their disability retirement allowance recalculated at the expiration of the entitlement period shall continue to have coverage under the post-retirement medical insurance program. Restrictions on employment shall remain in effect until the member attains age seventy (70) or until the member's eligibility is discontinued. KRS 161.520 and 161.525 shall not apply to survivors of disability retirees whose retirement allowances have been recalculated at the expiration of the entitlement period. Members who have their disability retirement allowance recalculated at the expiration of their entitlement period shall be entitled to a minimum monthly allowance of five hundred dollars ($500) as the basic straight life annuity. The minimum allowance shall be effective July 1, 1992, and shall apply to those members who have had their allowance recalculated prior to that date and to disability retirees who will have their benefit allowance recalculated on or after that date.

(7) Effective July 1, 1992, members retired for disability prior to July 1, 1964, shall be entitled to a minimum monthly allowance of five hundred dollars ($500) as their basic straight life annuity and their surviving spouse shall be eligible for survivor benefits as provided in KRS 161.520(1)(a) and (b).

(8) Any member retired by reason of disability may voluntarily waive disability benefits and return to teaching or any member, who is age sixty (60) years or older, may elect to waive disability benefits and retire for service on the basis of service credited to the member on the effective date of the disability retirement.

(9) In order to qualify for retirement by reason of disability a member must suffer from a physical or mental condition presumed to be permanent in duration and of a nature as to render the member incapable of being gainfully employed in a covered position. The incapability must be revealed by a competent examination by a licensed physician or physicians and must be approved by a majority of a medical review committee.

(10) A member retired by reason of disability shall be required to undergo periodic examinations at the discretion of the board of trustees to determine whether the disability allowance shall be continued. When examination and recommendation of a medical review committee indicate the disability no longer exists, the allowance shall be discontinued.

(11) Eligibility for payment shall begin on the first day of the month following receipt of the application in the Teachers' Retirement System office, or the first of the month next following the last payment of salary or sick leave benefits by the employer, whichever is the later date.

(12) No person who receives a disability allowance may be employed in a position that entails duties or qualification requirements similar to positions subject to participation in the retirement system either within or without the State of Kentucky. So doing shall constitute a misdemeanor and shall result in loss of the allowance from the first date of this service. ***A member who applies for and is approved for disability retirement on or after July 1, 2002, and whose annual disability benefit is less than thirty thousand dollars ($30,000) may earn income in any occupation other than covered employment only to the extent that the annual income from the other employment when added to the annual disability benefit does not exceed thirty thousand dollars ($30,000). For any member who exceeds this limit as a result of income from other employment, the Kentucky Teachers' Retirement System shall reduce the member's disability benefit on a dollar-for-dollar basis for each dollar that the member's combined annual disability benefit and annual income from other employment exceeds thirty thousand dollars ($30,000). The board of trustees may annually increase the thirty thousand dollar ($30,000) limit by the percentage increase in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%). All members who applied for disability retirement before July 1, 2002, and were approved as a result of that application shall be subject to the income limitations as they existed on June 30, 2002.*** The recipient of a disability allowance who engages in any gainful occupation other than covered employment must make a report of the duties involved, compensation received, and any other pertinent information required by the board of trustees.[~~ If the annual income from other employment plus the disability benefit exceed the sum of twenty-seven thousand dollars ($27,000) or the last earned compensation, whichever is the greater amount, the benefit shall be reduced to an amount which with earned income will not exceed the last earned compensation or twenty-seven thousand dollars ($27,000), whichever is the greater amount. In no case shall the benefit be reduced to less than seventy-five dollars ($75) per month, if the member has five (5) or more years of contributing service in the Teachers' Retirement System.~~]

(13) The board of trustees shall designate medical review committees, each consisting of three (3) licensed physicians. A medical review committee shall pass upon all applications for disability retirement and upon all ***applicant*** statements, ***medical*** certifications, and examinations submitted in connection with disability applications. The disposition of each case shall be recommended by a medical review committee in writing to the ***retirement system***[~~board of trustees~~]. Members of a medical review committee shall follow administrative regulations regarding procedures as the board of trustees may enact and shall be paid reasonable fees and expenses as authorized by the board of trustees in compliance with the provisions of KRS 161.330 and 161.340. The ***retirement system***[~~board of trustees~~] may secure additional medical ***examinations***[~~service~~] and information as it deems necessary. ***A member may appeal any final agency decision denying his or her disability retirement application pursuant to the provisions of subsection (2) of Section 4 of this Act***[~~The board of trustees shall promulgate administrative regulations that specify member appeal procedures~~].

(14) A disability may be presumed to be permanent if the condition creating the disability may be reasonably expected to continue for one (1) year or more from the date of application for disability benefits.

(15) Any member who has voluntarily waived disability benefits or whose disability benefits have been discontinued on recommendation of a medical review committee, may apply for reinstatement of disability benefits. The application for reinstatement must be made to the retirement system within twelve (12) months of the date disability benefits terminated. If the termination of benefits were voluntary, the reinstatement may be made without medical examination if application is made within three (3) months of the termination date. Other applications for reinstatement will be processed in the same manner as new applications for benefits.

(16) No person who is receiving disability benefits under this section may be employed in a position which qualifies the person for membership in a retirement system financed wholly or in part with public funds. Employment in a position prohibited by this subsection shall result in disqualification for those disability benefits from the date of employment in the prohibited position.

(17) Any person who is receiving benefits and becomes disqualified from receiving those benefits under this section***, or becomes disqualified from receiving a portion of those benefits due to income from other than covered employment,*** shall immediately notify the Teachers' Retirement System of this disqualification in writing and shall return all benefits paid after the date of disqualification. Failure to comply with these provisions shall create an indebtedness of that person to the Teachers' Retirement System. Interest at the rate of eight percent (8%) per annum shall be charged if the debt is not repaid within sixty (60) days after the date of disqualification. Failure to repay this debt creates a lien in favor of the Teachers' Retirement System upon all property of the person who improperly receives benefits and does not repay those benefits. ***The Kentucky Teachers' Retirement System may, in order to collect an outstanding debt, reduce or terminate any benefit that a member is otherwise entitled to receive.***

Section 32. KRS 161.663 is amended to read as follows:

Any active contributing member with less than five (5) years of Kentucky service may apply and be approved for disability retirement under KRS 161.661 if the member is found to be mentally or physically incapacitated as a result of ***a single, traumatic, physical***[~~an~~] injury related directly to their covered employment. All conditions and restrictions specified under KRS 161.661 shall be applicable, except that the initial annual disability allowance shall be equal to fifty percent (50%) of the member's current annual contract salary and the member's last annual contract salary shall be used in lieu of the final average salary in the recalculation of the member's benefit at the expiration of the eligibility period.

Section 33. KRS 161.675 is amended to read as follows:

(1) The board of trustees shall arrange by appropriate contract or on a self-insured basis to provide a broad program of group hospital and medical insurance for present and future eligible recipients of a retirement allowance from the Teachers' Retirement System. The board of trustees may also arrange to provide health insurance coverage by health maintenance organizations as defined in KRS 18A.225 as an alternative to group hospital and medical insurance for persons eligible for hospital and medical benefits under this section. The board of trustees may authorize present and future eligible recipients of a retirement allowance from the Teachers' Retirement System who are less than age sixty-five (65) to be included in the state-sponsored health insurance that is provided to active teachers and state employees under KRS 18A.225. Members who are sixty-five (65) or older and retired for service shall not be eligible to participate in the state employee health insurance program as described in KRS 18A.225.

(2) The coverage provided shall be as set forth in the contracts and the administrative regulations of the board of trustees. The board of trustees may change the levels of coverage and eligibility conditions to meet the changing needs of the annuitants and when necessary to contain the expenses of the insurance program within the funds available to finance the insurance program. The contracts and administrative regulations shall provide for, but not be limited to, hospital room and board, surgical procedures, doctors' care in the hospital, and miscellaneous hospital costs. ***An annuitant***[~~A retiree~~] whose effective date of retirement is July 1, 1974, and thereafter, must have a minimum of five (5) years creditable Kentucky service in the Teachers' Retirement System or ***five (5) years of combined creditable service in the state-administered retirement systems if the member is retiring under the reciprocity provisions of KRS 61.680 and 61.702. A member retiring under the reciprocity provisions of KRS 61.680 and 61.702 may not elect coverage through more than one (1) of the state-administered retirement systems***[~~of combined service in the Kentucky Employees Retirement System, of which at least two (2) years was creditable service under KRS 161.607(2), to qualify for the coverage~~]. The board of trustees shall offer coverage to the disabled child of ***an annuitant***[~~a retired member~~] regardless of the disabled child's age if the ***annuitant***[~~retired member~~] pays the entire premium for the disabled child's coverage. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(3) All expenses for benefits under this section shall be paid from the funding provisions contained in KRS 161.420(5), premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute.

(4) (a) The board of trustees shall determine the amount of health insurance supplement payments that the Teachers' Retirement System will provide to assist eligible ***annuitants***[~~recipients of a retirement allowance~~] in paying the cost of their health insurance, based on the funds available in the medical insurance fund. The board of trustees shall establish the maximum monthly amounts of health insurance supplement payments that will be made by the retirement system for eligible ***annuitants***[~~recipients of a retirement allowance~~]. The board of trustees shall annually establish the percentage of the maximum monthly health insurance supplement payment that will be made, based on age and years of service credit of eligible recipients of a retirement allowance. Monthly health insurance supplement payments made by the retirement system may not exceed the amount of the single coverage insurance premium chosen by the eligible ***annuitants***[~~recipients of a retirement allowance~~]. In order to qualify for health insurance supplements made by the retirement system, the ***annuitant***[~~recipient of a supplement payment~~] must agree to pay the difference between the insurance premium and the applicable supplement payment, by payroll deduction from his retirement allowance, or by a payment method approved by the retirement system.

(b) The board of trustees may offer, on a full-cost basis, health care insurance coverage provided by the retirement system to spouses and dependents of eligible ***annuitants***[~~retirees~~] not ***otherwise*** eligible for regular coverage. Recipients of a retirement allowance from the retirement system must agree to pay the cost of this coverage by payroll deduction from their retirement allowance or by a payment method approved by the retirement system.

(c) The board of trustees shall offer, on a full-cost basis, health insurance coverage provided by the retirement system to the disabled child of ***an annuitant***[~~a retired member~~], regardless of the age of the disabled child. A child shall be considered disabled for purposes of this section if the child has been determined to be eligible for federal Social Security disability benefits.

(5) The board of trustees is empowered to require the annuitant and the annuitant's spouse to pay a premium charge to assist in the financing of the hospital and medical insurance program. The board of trustees is empowered to pay the expenses for insurance coverage from the medical insurance fund, from the premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute. The board may provide insurance coverage by making payment to insurance carriers including health insurance plans that are available to active and retired state employees and active teachers, institutions, and individuals for services performed, or the board of trustees may elect to provide insurance on a "self-insurance" basis or a combination of these provisions.

(6) The board of trustees may approve health insurance supplement payments to eligible ***annuitants***[~~retirees or recipients~~] who are less than sixty-five (65) years of age, as reimbursement for hospital and medical insurance premiums made by ***annuitants***[~~retirees~~] for their individual coverage. Eligible ***annuitants***[~~retirees~~] or recipients are those ***annuitants***[~~retirees~~

~~or recipients~~] who are not eligible for Medicare and who do not reside in Kentucky or in an area outside of Kentucky where comparable coverage is available. The reimbursement payments shall not exceed the minimum supplement payment that would have been made had the ***annuitant***[~~retiree~~] lived in Kentucky. Eligible ***annuitants***[~~retirees~~] or recipients shall submit proof of payment to the retirement system for hospital and medical insurance that they have obtained. Reimbursement payments shall be made on a quarterly basis.

(7) Contracts negotiated may include the provision that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system.

(8) The board of trustees is empowered to promulgate administrative regulations to assure efficient operation of the hospital and medical insurance program.

(9) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient.

(10) In the event that a member is providing services on less than a full-time basis under Section 25 of this Act, the retirement system may pay the full cost of the member's health insurance coverage for the full fiscal year that the member is providing those services, at the conclusion of which, the retirement system may then bill the active employer and the active employer shall reimburse the retirement system for the cost of the health insurance coverage incurred by the retirement system on a pro rata basis for the time that the member was employed by the active employer.

Section 34. KRS 161.700 is amended to read as follows:

(1) The right of a ***member***[~~teacher~~] to a retirement allowance and to the return of contributions, any benefit or right accrued or accruing to any person under the retirement system, and the money in the various funds of the retirement system are exempt from any state or municipal tax, are not subject to execution, garnishment, attachment, or other process, and are unassignable except as provided in this chapter, and except for court or administratively ordered current child support, owed child support, or to-be-owed child support. Except retirement benefits accrued or accruing to any person under this retirement system on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(2) Retirement allowance, disability allowance, accumulated contributions, or any other benefit under the retirement system shall not be classified as marital property pursuant to KRS 403.190(1). Retirement allowance, disability allowance, accumulated contributions, or any other benefit under the retirement system shall not be considered as an economic circumstance during the division of marital property in an action for dissolution of marriage pursuant to KRS 403.190(1)(d).

Section 35. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall include a person, including an elected public official, who is regularly employed by any department, board, agency, branch of state government, or any municipal, urban-county, charter county, or county government, whose legislative body has opted to participate in the state health insurance program pursuant to KRS 79.080 and who is a contributing member to any one (1) of the retirement systems administered by the state. It shall also include a person who must fulfill the requirements established by the Kentucky Board of Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems and includes members of the Legislators' Retirement Plan as provided in KRS 18A.2287. It shall also include a person who is a present or future recipient of a retirement allowance from the Teachers' Retirement System of Kentucky who either satisfies the requirements of KRS 161.525, 161.620, and 161.675 or who is board certified, including a beneficiary of a retired member who is receiving a retirement allowance from the Teachers' Retirement System of Kentucky, except that a member who is receiving a retirement allowance from the Teachers' Retirement System and who is age sixty-five (65) or older shall not be included ***unless that member is reemployed in a position covered by any one (1) of the state-administered retirement systems***.

(2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health care coverage including, but not limited to, indemnity, health maintenance organization (HMO), preferred provider organization (PPO), point of service

(POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of state employees. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994. All state employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the state or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment. For calendar year 2001 only, an emergency shall exist when any county in which only one (1) health insurance company offers a single plan to state employees and, subsequent to the open enrollment period, the health insurance company fails to maintain at least sixty-five percent (65%) of its contracts within the geographic region with specialty physicians who were participating in the network at the time of open enrollment. The Finance and Administration Cabinet shall immediately notify the Governor, the Legislative Research Commission, and the secretary of the Personnel Cabinet and shall be authorized to immediately negotiate and contract with additional health insurance companies for additional plans to serve any county without meeting the requirements of the Model Procurement Code under KRS Chapter 45.

(b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws.

(c) Any carrier bidding to offer health care coverage to members of the state group shall agree to provide coverage to all members of the state group, including both active employees and retirees within the county or counties specified in its bid. Furthermore, any carrier bidding to offer health care coverage to members of the state group shall also agree to rate all such members of the state group as a single entity, except for those retirees whose former employers insure their active employees outside the state health insurance program.

(d) Any carrier bidding to offer health care coverage to any member of the state group shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance of data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual member; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.

(e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall provide to the General Assembly in June of each year an analysis of enrollment, claims, utilization data of all carriers for the prior plan year ending December 31, and on the financial stability of the program. The report shall include, but not be limited to, loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, paid dependent coverage, and statutorially required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including, but not limited to, loss ratios, reserves, and reinsurance agreements.

(f) If any agency participating in the state employee health insurance program for its active members terminates participation in the state employee health insurance program for its active members and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, neither the agency nor the employees shall receive the state-funded contribution after termination from the state employee health insurance program.

(g) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state health insurance plan's appropriation account.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, may procure from one (1) or more dental insurance companies, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under Subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government; or

(c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government for any other health care coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a managed health care plan or of a prepaid dental plan, under which he has elected coverage, into either the service area of another managed health care plan or prepaid dental plan or into an area of the state not within a managed health care plan service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health care plan or dental plan.

(6) No payment of premium by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and other provisions the commissioner of insurance may approve.

(8) The policy or policies shall contain the provision that employees or retired employees shall be allowed to change health care plans during the reopening period without any limitation for pre-existing conditions if the employee has met the pre-existing condition limitation upon initial employment or reemployment with the group.

(9) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining health care coverage and dental coverage under the provisions of this section.

(10) Group rates under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(11) The health care contract or contracts for state employees shall be entered into for a period of not less than one (1) year.

(12) The secretary shall appoint twenty-eight (28) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state health insurance program for state employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.

(13) Notwithstanding any other provision of law to the contrary, the policy or policies provided to state employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of state employees or their dependents.

(14) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Personnel Cabinet, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.

Section 36. Whereas, retirement annuity adjustments are implemented at the beginning of the fiscal year, an emergency is declared to exist, and this Act takes effect July 1, 2002.

HB 684, AN ACT relating to student financial aid.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.7535 is amended to read as follows:

Notwithstanding KRS 164.753(4)(d), the Kentucky Higher Education Assistance Authority may award college access program grants pursuant to KRS 164.753(4), to the extent funds are available for the purpose, to financially needy part-time and full-time undergraduate students***, including students enrolled in a program of study designated as an equivalent undergraduate program of study by the Council on Postsecondary Education in an administrative regulation,*** enrolled or accepted for enrollment at participating institutions that are colleges, business schools, schools of nursing, or vocational schools located within the Commonwealth. Grants under this section to recipients attending colleges shall be awarded only for attendance in a program of study of at least two (2) academic years' duration that leads to a degree, and shall not exceed the prevailing amount charged for tuition at publicly-supported community colleges in Kentucky. Grants under this section shall be awarded to students enrolled or accepted for enrollment at publicly-operated vocational-technical institutions only for attendance in a program of study of at least two (2) academic years' duration that leads to a certificate or diploma. Awards to recipients attending business schools, schools of nursing, or vocational schools shall not exceed the prevailing amount charged for tuition at publicly-operated vocational-technical institutions in Kentucky. The provisions of this section shall not limit the authority's capability to use funds appropriated for this purpose to match federal funds, make grant awards, adopt administrative regulations that conform to the requirements of federal laws and regulations for full participation in federally-funded student financial assistance programs.

Section 2. KRS 164.7881 is amended to read as follows:

(1) Eligible high school students who have graduated from high school and eligible postsecondary students who have earned a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and a supplemental award, or a supplemental award only pursuant to KRS 164.7879(3)(c), shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or a supplemental award only for a maximum of eight (8) academic terms in an undergraduate or other postsecondary program of study at a participating institution, except as provided in subsection (6) of this section.

(2) To receive the Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, an eligible high school or postsecondary student shall:

(a) Enroll in and attend a participating institution as a full-time student or a part-time student; and

(b) Maintain eligibility as provided in subsection (3) of this section.

(3) Eligibility for a Kentucky educational excellence scholarship or a Kentucky educational excellence scholarship and supplemental award shall terminate upon the earlier of:

(a) The expiration of five (5) years following the student's graduation from high school, except as provided in subsection (5) or (6) of this section; or

(b) The successful completion of an undergraduate or other postsecondary course of study. However, any student who successfully completes the requirements for a degree or certification involving a postsecondary course of study that normally requires less than eight (8) academic terms to complete may continue to receive the benefits of a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, for a cumulative total of eight (8) academic terms if the student enrolls as at least a part-time student in a four (4) year program.

(4) (a) The maximum award amount shall be determined by the council and shall be adjusted as provided in this subsection. The award amount ultimately determined to be available to an eligible postsecondary student for an award period shall be disbursed by the authority to the eligible postsecondary student in two (2) installments, with one (1) installment being disbursed in each of the two (2) academic terms during the award period.

(b) The authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible postsecondary student for any academic term in which the student is enrolled on a part-time basis. Each academic term for which any scholarship or supplemental award funds are accepted by an eligible postsecondary student shall count as a full academic term, even if the award amount was reduced to reflect the part-time status of the eligible postsecondary student.

(c) 1. An eligible postsecondary student who is enrolled full-time in an undergraduate program of study***, or in a program of study designated as an equivalent undergraduate program of study by the Council on Postsecondary Education in an administrative regulation,*** shall receive the maximum award amount for the first award period that the student is enrolled in and attending the program of study. To retain the maximum award for the second award period, an eligible postsecondary student shall have at least a 2.5 grade point average at the end of the first award period. To retain the maximum award amount for subsequent award periods, an eligible postsecondary student shall have a cumulative grade point average of 3.0 or greater at the end of the prior award period.

2. Any eligible postsecondary student who maintains a cumulative grade point average of less than 3.0 but at least 2.5 at the completion of any award period shall receive a reduction in the maximum award amount equal to fifty percent (50%) of the maximum award amount for the next award period.

3. Any eligible postsecondary student who maintains a cumulative grade point average of less than 2.5 at the completion of any award period shall lose his or her award for the next award period.

4. Each participating institution shall certify to the authority at the close of each award period the cumulative grade point average of each Kentucky educational excellence scholarship recipient enrolled as a full-time or part-time student at the participating institution.

5. Any student who loses eligibility through failure to maintain the required cumulative grade point average may regain eligibility in a subsequent award period upon reestablishing at least a 2.5 cumulative grade point average or its equivalent during a subsequent award period, as certified by the participating institution.

(5) The expiration of a student's five (5) year eligibility shall be extended by the authority upon a determination that the student was unable to enroll for or complete an academic term due to any of the following circumstances:

(a) A serious and extended illness or injury of the student, certified by an attending physician;

(b) The death or serious and extended illness or injury of an immediate family member of the student, certified by an attending physician, which would render the student unable to attend classes;

(c) Natural disasters that would render a student unable to attend classes; or

(d) Active duty status for the student in the United States Armed Forces or as an officer in the Commissioned Corps of the United States Public Health Service, or active service by the student in the Peace Corps Act or the Americorps, for up to three (3) years.

(6) An eligible postsecondary student who is enrolled at a participating institution in a five (5) year undergraduate degree program designated in an administrative regulation promulgated by the council shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or the supplemental award only for a maximum of ten (10) academic terms. The expiration of an eligible postsecondary student's five (5) year eligibility shall be extended to six (6) years for eligible postsecondary students meeting the requirements of this subsection.

(7) Each eligible high school student who attains a 28 or above on the ACT and a 4.0 grade point average for all four (4) years of high school shall be designated as a "Senator Jeff Green Scholar" in honor of the late Senator Jeff Green of Mayfield, Kentucky, First District, and shall be recognized by the high school in a manner consistent with recognition given by the high school to other high levels of academic achievement.

Section 3. The provisions of this Act apply to the 2001-2002 academic year and thereafter. An eligible student under the provisions of this Act for the 2001-2002 academic year shall have until October 1, 2002, to apply for a retroactive award.

SB 74, AN ACT relating to college preparatory educational programs and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

As used in KRS Chapters 158 unless the context requires otherwise:

(1) "Advanced placement" means a board-approved preparatory course for the College Board Advanced Placement examination that incorporates all topics and instructional strategies specified by the College Board on its standard syllabus for a given subject area.

(2) "Board" means the Kentucky Board of Education.

(3) "College Board Advanced Placement examination" means the advanced placement test administered by the College Board and Educational Testing Service.

(4) "College Board" means the College Board and Educational Testing Service.

(5) "Department" means the Kentucky Department of Education.

(6) "Dual credit" means a board-approved college preparatory course of study in which a high school student receives credit from both the high school and postsecondary institution in which the student is enrolled upon completion of a single class or designated program of study.

(7) "Dual enrollment" means a college preparatory course of study in which a student is enrolled in a high school and postsecondary institution simultaneously.

(8) "Kentucky Virtual High School" means secondary-level instructional programs or courses offered by the Kentucky Department of Education through the Internet and other on-line, computer-based methods.

(9) "Kentucky Virtual University" means a college-level instructional program offered by the Council on Postsecondary Education through the Internet or other on-line, computer-based methods.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) By December 31, 2002, the Kentucky Board of Education shall promulgate administrative regulations establishing the criteria a school shall meet in order to designate a course an advanced placement course, including content and program standards concerning student admission criteria, data collection, and reporting.

(2) Upon receipt of adequate federal funding for these purposes, by December 31, 2002, the Department of Education shall:

(a) Expand advanced placement teacher training institutes, including offering advanced placement teacher training instruction and assistance through the Kentucky Virtual High School or in conjunction with the Council on Postsecondary Education through the Kentucky Virtual University;

(b) Require teachers who are planning to participate in advanced placement teacher training and complete advanced placement training at advanced placement institutes facilitated by the department to sign an agreement to teach at least one (1) advanced placement course in a Kentucky public school or the Kentucky Virtual High School when assigned by the school principal;

(c) Develop the Kentucky Virtual Advanced Placement Academy which shall offer school districts and their students access to a core advanced placement curriculum through the Kentucky Virtual High School;

(d) Identify, in conjunction with the Council on Postsecondary Education, resources at the secondary and postsecondary levels that can be directed toward advanced placement or dual enrollment instruction;

(e) Compare the costs of offering advanced placement courses through traditional on-site instruction, the Kentucky Virtual High School, and other methods and shall offer each school district assistance, if requested, in analyzing how the school district can most cost-effectively offer the largest number of advanced placement courses;

(f) Identify current and future funding sources for advanced placement or dual enrollment instructional programs and the amount of funds available or anticipated from those sources; and

(g) Submit a report to the Kentucky General Assembly outlining compliance with this section.

(3) Beginning with the 2002-2003 school year and thereafter, each school district shall :

(a) Accept for credit toward graduation any course a student successfully completes through the Kentucky Virtual High School and incorporate the grade the student receives in a Kentucky Virtual High School course in calculating that student's grade point average without distinction between the grade received in the Kentucky Virtual High School course and courses taught within the school district for which the student receives a grade;

(b) Accept for credit toward graduation and completion of high school course requirements an advanced placement, a high school equivalent, or a Kentucky Virtual High School course taken by a student in grades 5, 6, 7, or 8 if that student attains performance levels expected of high school students in that district as determined by achieving a score of "3" or higher on a College Board Advanced Placement examination or a grade of "B" or better in a high school equivalent or a Kentucky Virtual High School course; and

(c) Pay tuition and other costs for students from their districts who are enrolled in a Kentucky Virtual High School course for credit by proportionately sharing funds generated under KRS 157.360 or other funding sources.

SECTION 3. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) Beginning with the 2003-2004 school year and thereafter, each secondary school-based decision making council shall offer a core curriculum of advanced placement, dual enrollment, or dual credit courses as defined in Section 1 of this Act, using either or both on-site instruction or electronic instruction through the Kentucky Virtual High School or other on-line alternatives. In addition, each school-based decision making council shall comply with any additional requirements for advanced placement, dual enrollment, and dual credit courses that may be established cooperatively by the Kentucky Department of Education, the Education Professional Standards Board, and the Council on Postsecondary Education in accordance with the definitions in Section 1 of this Act.

(2) Each secondary school-based decision making council shall establish a policy on the recruitment and assignment of students to advanced placement, dual enrollment, and dual credit courses that recognizes that all students have the right to be academically challenged and should be encouraged to participate in these courses.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

As used in KRS Chapters 164, unless the context requires otherwise:

(1) "Advanced placement" means a board-approved preparatory course for the College Board Advanced Placement examination that incorporates all topics and instructional strategies specified by the College Board on its standard syllabus for a given subject area.

(2) "Board" means the Kentucky Board of Education.

(3) "College Board Advanced Placement examination" means the advanced placement test administered by the College Board and Educational Testing Service.

(4) "College Board" means the College Board and Educational Testing Service.

(5) "Department" means the Kentucky Department of Education.

(6) "Dual credit" means a board-approved college preparatory course of study in which a high school student receives credit from both the high school and postsecondary institution in which the student is enrolled upon completion of a single class or designated program of study.

(7) "Dual enrollment" means a college preparatory course of study in which a student is enrolled in a high school and postsecondary institution simultaneously.

(8) "Kentucky Virtual High School" means secondary-level instructional programs or courses offered by the Kentucky Department of Education through the Internet and other on-line, computer-based methods.

(9) "Kentucky Virtual University" means a college-level instructional program offered by the Council on Postsecondary Education through the Internet or other on-line, computer-based methods.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

By December 31, 2002:

(1) The Council on Postsecondary Education shall promulgate administrative regulations that require public postsecondary educational institutions, beginning with the 2003-2004 school year, to grant credit toward graduation to a student who scores at least "3" on a College Board Advanced Placement examination.

(2) The Council on Postsecondary Education shall publish information, in print and electronic format, about the scores required on College Board Advanced Placement examinations at which credit toward graduation and completion of degree requirements will be granted at all Kentucky public and private postsecondary educational institutions.

(3) The Council on Postsecondary Education, in conjunction with the Kentucky Board of Education and the Education Professional Standards Board, shall develop guidelines for content knowledge and teacher training in dual enrollment and dual credit programs offered in Kentucky.

The Committee Substitute to **SB 74** is as follows:

SB 74, AN ACT relating to college preparatory educational programs and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

As used in KRS Chapter 158 unless the context requires otherwise:

(1) "Advanced placement" means a board-approved preparatory course for the College Board Advanced Placement examination that incorporates all topics and instructional strategies specified by the College Board on its standard syllabus for a given subject area.

(2) "Board" means the Kentucky Board of Education.

(3) "College Board Advanced Placement examination" means the advanced placement test administered by the College Board and Educational Testing Service.

(4) "College Board" means the College Board and Educational Testing Service.

(5) "Department" means the Kentucky Department of Education.

(6) "Dual credit" means a board-approved college preparatory course of study in which a high school student receives credit from both the high school and postsecondary institution in which the student is enrolled upon completion of a single class or designated program of study.

(7) "Dual enrollment" means a college preparatory course of study in which a student is enrolled in a high school and postsecondary institution simultaneously.

(8) "Kentucky Virtual High School" means secondary-level instructional programs or courses offered by the Kentucky Department of Education through the Internet and other on-line, computer-based methods.

(9) "Kentucky Virtual University" means a college-level instructional program offered by the Council on Postsecondary Education through the Internet or other on-line, computer-based methods.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) By December 31, 2002, the Kentucky Board of Education shall promulgate administrative regulations establishing the criteria a school shall meet in order to designate a course an advanced placement course, including content and program standards concerning student admission criteria, data collection, and reporting.

(2) Upon receipt of adequate federal funding for these purposes, by December 31, 2002, the Department of Education shall:

- *(a) Expand advanced placement teacher training institutes, including offering advanced placement teacher training instruction and assistance through the Kentucky Virtual High School or in conjunction with the Council on Postsecondary Education through the Kentucky Virtual University;*
- *(b) Require teachers who are planning to participate in advanced placement teacher training and complete advanced placement training at advanced placement institutes facilitated by the department to sign an agreement to teach at least one (1) advanced placement course in a Kentucky public school or the Kentucky Virtual High School when assigned by the school principal;*
- *(c) Develop the Kentucky Virtual Advanced Placement Academy which shall offer school districts and their students access to a core advanced placement curriculum through the Kentucky Virtual High School;*
- *(d) Identify, in conjunction with the Council on Postsecondary Education, resources at the secondary and postsecondary levels that can be directed toward advanced placement or dual enrollment instruction;*
- *(e) Compare the costs of offering advanced placement courses through traditional on-site instruction, the Kentucky Virtual High School, and other methods and shall offer each school district assistance, if requested, in analyzing how the school district can most cost-effectively offer the largest number of advanced placement courses;*
- *(f) Identify current and future funding sources for advanced placement or dual enrollment instructional programs and the amount of funds available or anticipated from those sources; and*
- *(g) Submit a report to the Kentucky General Assembly outlining compliance with this section.*

(3) Beginning with the 2002-2003 school year and thereafter, each school district shall :

- *(a) Accept for credit toward graduation any course a student successfully completes through the Kentucky Virtual*

High School and incorporate the grade the student receives in a Kentucky Virtual High School course in calculating that student's grade point average without distinction between the grade received in the Kentucky Virtual High School course and courses taught within the school district for which the student receives a grade;

(b) Accept for credit toward graduation and completion of high school course requirements an advanced placement, a high school equivalent, or a Kentucky Virtual High School course taken by a student in grades 5, 6, 7, or 8 if that student attains performance levels expected of high school students in that district as determined by achieving a score of "3" or higher on a College Board Advanced Placement examination or a grade of "B" or better in a high school equivalent or a Kentucky Virtual High School course; and

(c) Pay tuition and other costs for students from their districts who are enrolled in a Kentucky Virtual High School course for credit that is part of the student's regular school day coursework by proportionately sharing funds generated under KRS 157.360 or other funding sources.

SECTION 3. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) Beginning with the 2003-2004 school year and thereafter, each secondary school-based decision making council shall offer a core curriculum of advanced placement, dual enrollment, or dual credit courses as defined in Section 6 of this Act, using either or both on-site instruction or electronic instruction through the Kentucky Virtual High School or other on-line alternatives. In addition, each school-based decision making council shall comply with any additional requirements for advanced placement, dual enrollment, and dual credit courses that may be established cooperatively by the Kentucky Department of Education, the Education Professional Standards Board, and the Council on Postsecondary Education in accordance with the definitions in Section 1 of this Act.

(2) Each secondary school-based decision making council shall establish a policy on the recruitment and assignment of students to advanced placement, dual enrollment, and dual credit courses that recognizes that all students have the right to be academically challenged and should be encouraged to participate in these courses.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

As used in KRS Chapter 164, unless the context requires otherwise:

(1) "Advanced placement" means a board-approved preparatory course for the College Board Advanced Placement examination that incorporates all topics and instructional strategies specified by the College Board on its standard syllabus for a given subject area.

(2) "Board" means the Kentucky Board of Education.

(3) "College Board Advanced Placement examination" means the advanced placement test administered by the College Board and Educational Testing Service.

(4) "College Board" means the College Board and Educational Testing Service.

(5) "Department" means the Kentucky Department of Education.

(6) "Dual credit" means a board-approved college preparatory course of study in which a high school student receives credit from both the high school and postsecondary institution in which the student is enrolled upon completion of a single class or designated program of study.

(7) "Dual enrollment" means a college preparatory course of study in which a student is enrolled in a high school and postsecondary institution simultaneously.

(8) "Kentucky Virtual High School" means secondary-level instructional programs or courses offered by the Kentucky Department of Education through the Internet and other on-line, computer-based methods.

(9) "Kentucky Virtual University" means a college-level instructional program offered by the Council on Postsecondary Education through the Internet or other on-line, computer-based methods.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

By December 31, 2002:

(1) The Council on Postsecondary Education shall promulgate administrative regulations that require public postsecondary educational institutions, beginning with the 2003-2004 school year, to grant credit toward graduation to a student who scores at least "3" on a College Board Advanced Placement examination.

(2) The Council on Postsecondary Education shall publish information, in print and electronic format, about the scores required on College Board Advanced Placement examinations at which credit toward graduation and completion of degree requirements will be granted at all Kentucky public and private postsecondary educational institutions.

(3) The Council on Postsecondary Education, in conjunction with the Kentucky Board of Education and the Education Professional Standards Board, shall develop guidelines for content knowledge and teacher training in dual enrollment and dual credit programs offered in Kentucky.

Section 6. KRS 156.160 is amended to read as follows:

(1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in

KRS 158.6451. Administrative regulations shall be promulgated for the following:

(a) Courses of study for the different grades and kinds of common schools identifying the common curriculum content directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and KRS 158.6453 and distributed to local school districts and schools. They shall include the following: The courses of study for students shall include American sign language which shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law;

(b) ***The courses of study identified under subsection (a) of this section shall include a required core curriculum of advanced placement, dual enrollment, or dual credit courses to be offered by high schools. The required core curriculum shall not include any course if:***

1. The Kentucky virtual high school does not offer the course;

2. The course has prerequisites that are not statewide requirements for graduation and are not offered by the Kentucky virtual high school; or

3. The course requires laboratory experiences beyond what can be provided by the Kentucky virtual high school.

(c) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(d)[~~(c)~~]The minimum requirements for high school graduation in light of the expected outcomes for students and schools set forth in KRS 158.6451. Student scores from any assessment administered under KRS 158.6453 that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission;

(e)[~~(d)~~]Taking and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;

(f)[~~(e)~~] Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;

(g)[~~(f)~~] Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;

(h)[~~(g)~~] A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a vision examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that the child is enrolled in a public school, public preschool, or Head Start program;

(i)[~~(h)~~] The transportation of children to and from school;

(j)[~~(i)~~] The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(k)[~~(j)~~] The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;

(l)[~~(k)~~] A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(m)[~~(l)~~] The disposal of real and personal property owned by local boards of education.

(2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include, but are not limited to, the following:

1. An alternative approach will achieve the same result required by the administrative regulation;

2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or

3. There is a finding of good cause for the waiver.

(b) The following shall not be subject to waiver:

1. Administrative regulations relating to health and safety;

2. Administrative regulations relating to civil rights;

3. Administrative regulations required by federal law; and

4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.

(c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.

Section 7. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;

2. Instructional programs operated in institutions or schools outside of the district; or

3. Alternative schools designed to provide services to at-risk populations with unique needs;

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers; and

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or

2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal or head teacher shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely

manner, shall be responsible for carrying out the following:

a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;

(h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with subsection (2)(i)10. of this section. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. When a vacancy in the school principalship occurs, the school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request when qualified applicants are available;

(i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;

2. Assignment of all instructional and noninstructional staff time;

3. Assignment of students to classes and programs within the school***, including provisions for the recruitment and assignment of students to advanced placement, dual enrollment, and dual credit courses that recognizes that all students have the right to be academically challenged and should be encouraged to participate in these courses***;

4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;

5. Determination of use of school space during the school day;

6. Planning and resolution of issues regarding instructional practices;

7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;

8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;

9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and

10. Procedures to assist the council with consultation in the selection of personnel by the principal, including, but not limited to, meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; and

(j) Each school council shall annually review data on its students' performance as shown by the Commonwealth Accountability Testing System. The data shall include, but not be limited to, information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council shall adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b). The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than December 31 of each year. If a school does not have a council, the review shall be completed by the principal.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;

(d) Professional development plans developed pursuant to KRS 156.095;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education, and school council members shall complete the required training no later than thirty (30) days after the beginning of the service year for which they are elected to serve. By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has

been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements specified in KRS 156.095. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

SB 131, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194A.135 is amended to read as follows:

(1) The ***Kentucky Council on*** Developmental Disabilities~~[Council]~~ is created within the cabinet.

(2) The ***Kentucky Council on*** Developmental Disabilities~~[Council]~~ is established to comply with the requirements of the Developmental Disabilities Act of 1984 and any subsequent amendment to that act.

(3) The members of the ***Kentucky Council on*** Developmental Disabilities~~[Council]~~ shall be appointed by the Governor to serve as advocates for persons with developmental disabilities. The council shall be composed of twenty-six (26) members.

(a) Ten (10) members shall be representatives of: the principal state agencies administering funds provided under the Rehabilitation Act of 1973 as amended; the state agency that administers funds provided under the Individuals with Disabilities Education Act (IDEA); the state agency that administers funds provided under the Older Americans Act of 1965 as amended; the single state agency designated by the Governor for administration of Title XIX of the Social Security Act for persons with developmental disabilities; higher education training facilities, each university-affiliated program or satellite center in the Commonwealth; and the protection and advocacy system established under Public Law 101-496. These members shall represent the following:

1. Department for Vocational Rehabilitation;
2. Department for the Blind;
3. Division of Exceptional Children, within the Department of Education;
4. Office of Aging Services;
5. Department for Medicaid Services;
6. Department of Public Advocacy, Protection and Advocacy Division;
7. University-affiliated programs;
8. ***Local and nongovernmental agencies and private nonprofit groups concerned with services for persons with developmental disabilities***~~[Council on Postsecondary Education]~~;
9. Department for Mental Health ***and***~~[/]~~ Mental Retardation Services; and
10. Department for Public Health, Division of Adult and Child Health.

(b) At least sixty percent (60%) of the members of the council shall be composed of persons with developmental disabilities or the parents or guardians of persons, or immediate relatives or guardians of persons with mentally impairing developmental disabilities, who are not managing employees or persons with ownership or controlling interest in any other entity that receives funds or provides services under the Developmental Disabilities Act of 1984 as amended and who are not employees of a state agency that receives funds or provides services under this section. Of these members, five (5) members shall be persons with developmental disabilities, and five (5) members shall be parents or guardians of children with developmental disabilities or immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves. Six (6) members shall be a combination of individuals in these two (2) groups, and at least one (1) of these members shall be an immediate relative or guardian of an institutionalized or previously institutionalized person with a developmental disability or an individual with a developmental disability who resides in an institution or who previously resided in an institution.

(c) Members not representing principal state agencies shall be appointed for a term of three (3) years. Members shall serve no more than two (2) consecutive three (3) year terms. Members shall serve until their successors are appointed or until they are removed for cause.

(d) The council shall elect its own chair, adopt bylaws, and operate in accordance with its bylaws. Members of the council who are not state employees shall be reimbursed for necessary and actual expenses. The cabinet shall provide personnel adequate to insure that the council has the capacity to fulfill its responsibilities. The council shall be headed by an executive director. If the executive director position becomes vacant, the council shall be responsible for the recruitment and hiring of a new executive director.

(4) The ***Kentucky Council on*** Developmental Disabilities[~~ Council~~] shall:

(a) Develop, in consultation with the cabinet, and implement the state plan as required by Part B of the Developmental Disabilities Act of 1984, as amended***, with a goal of development of a coordinated consumer and family centered focus and direction***, including the specification of priority services required by that plan;

(b) Monitor, review, and evaluate, not less often than annually, the implementation and effectiveness of the state plan in meeting the plan's objectives;

(c) To the maximum extent feasible, review and comment on all state plans that relate to persons with developmental disabilities;

(d) Submit to the secretary of the cabinet, the commissioner of the Department for Mental Health and Mental Retardation Services, and the Secretary of the United States Department of Health and Human Services any periodic reports on its activities as required by the United States Department of Health and Human Services and keep records and afford access as the cabinet finds necessary to verify the reports;

(e) Serve as an advocate for individuals with developmental disabilities and conduct programs, projects, and activities that promote systematic change and capacity building;

(f) Examine, not less than once every ***five (5)***[~~three (3)~~] years, the provision of and need for federal and state priority areas to address, on a statewide and comprehensive basis, urgent needs for services, supports, and other assistance for individuals with developmental disabilities and their families; and

(g) Prepare, approve, and implement a budget that includes amounts paid to the state under the Developmental Disabilities Act of 1984, as amended, to fund all programs, projects, and activities under that Act.

Section 2. KRS 15A.065 is amended to read as follows:

(1) The Department of Juvenile Justice shall be headed by a commissioner and shall develop and administer programs for:

(a) Prevention of juvenile crime;

(b) Identification of juveniles at risk of becoming status or public offenders and early intervention strategies for these children, and, except for adjudicated youth, participation in prevention programs shall be voluntary;

(c) Providing informational services to law enforcement, prosecution, victims, defense attorneys, and the public relating to juvenile crime, its prevention, detection, trial, punishment, and rehabilitation, and services for youth adjudicated delinquent or found guilty of public offenses or as youthful offenders;

(d) The operation of or contracting for the operation of postadjudication treatment facilities for children adjudicated delinquent or found guilty of public offenses or as youthful offenders;

(e) The operation or contracting for the operation of by the department, and the encouragement of operation by others, including local governments, volunteer organizations, and the private sector, of programs to serve predelinquent and delinquent youth;

(f) Utilizing outcome-based planning and evaluation of programs to ascertain which programs are most appropriate and effective in promoting the goals of this section;

(g) Conducting research and comparative experiments to find the most effective means of:

1. Preventing delinquent behavior;
2. Identifying predelinquent youth;
3. Preventing predelinquent youth from becoming delinquent;
4. Assessing the needs of predelinquent and delinquent youth;
5. Providing an effective and efficient program designed to treat and correct the behavior of delinquent youth

and youthful offenders;

6. Assessing the success of all programs of the department and those operated on behalf of the department and making recommendations for new programs, improvements in existing programs, or the modification, combination, or elimination of programs as indicated by the assessment and the research; and

7. Keeping the department, the educational community, police, prosecutors, the courts, and the public abreast of the latest programs, technology, counseling tools, and other aspects of juvenile counseling, correction, and treatment; and

(h) Seeking funding from public and private sources for demonstration projects, normal operation of programs, and alterations of programs.

(2) The Department of Juvenile Justice may contract, with or without reimbursement, with a city, county, or urban-county government, for the provision of probation, diversion, and related services by employees of the contracting local government.

(3) The Department of Juvenile Justice may contract with other agencies for the provision of services, treatment, or facilities which the department finds in the best interest of any child, or for which a similar service, treatment, or facility is either not provided by the department or not available because the service or facilities of the department are at their operating capacity and unable to accept new commitments.

(4) The Department of Juvenile Justice shall have an advisory board appointed by the Governor, which shall provide a formulation of and recommendations for meeting the requirements of this section not less than annually to the Governor, the Justice Cabinet, the Department of Juvenile Justice, the Cabinet for Families and Children, the Interim Joint Committees on Judiciary and on Appropriations and Revenue of the Legislative Research Commission when the General Assembly is not in session, and the Judiciary and the Appropriations and Revenue Committees of the House of Representatives and the Senate when the General Assembly is in session. The advisory board shall develop program criteria for early juvenile intervention, diversion, and prevention projects, develop statewide priorities for funding, and make recommendations for allocation of funds to the Commissioner of the Department of Juvenile Justice. The advisory board shall review grant applications from local juvenile delinquency prevention councils and include in its annual report the activities of the councils. The advisory board shall meet not less than quarterly. The advisory board shall be chaired by a private citizen member appointed by the Governor. The advisory board shall consist of one (1) member of each of the following:

(a) Justice Cabinet;
(b) Department of Juvenile Justice;
(c) Cabinet for Families and Children;
(d) Department for Medicaid Services;
(e) Department of Education;
(f) Department of Public Advocacy;
(g) Administrative Office of the Courts;
(h) Cabinet for Workforce Development;
(i) Attorney General;
(j) Kentucky ***Council on*** Developmental Disabilities[~~ Council~~];
(k) Circuit Judges Association;
(l) District Judges Association;
(m) Commonwealth's Attorneys Association;
(n) County Attorneys Association;
(o) County Judge/Executives Association;
(p) A person eighteen (18) to twenty-five (25) years of age not associated with any other group listed in this paragraph;
(q) A person from the business community not associated with any other group listed in this paragraph;
(r) A parent not associated with any other group listed in this paragraph;
(s) A youth advocate not associated with any other group listed in this paragraph;
(t) A victim of a crime committed by a person under the age of eighteen (18) not associated with any other group listed in this paragraph;
(u) A local school district special education administrator not associated with any other group listed in this paragraph;
(v) A peace officer not associated with any other group listed in this paragraph; and
(w) A college or university professor specializing in law, criminology, corrections, or similar discipline with an

interest in juvenile corrections programs.

Section 3. KRS 210.575 is amended to read as follows:

(1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Retardation and Other Developmental Disabilities. The commission shall consist of:

(a) The secretary of the Cabinet for Health Services;

(b) The secretary of the Cabinet for Families and Children;

(c) The commissioner of the Department for Mental Health and Mental Retardation Services;

(d) The commissioner of the Department for Medicaid Services;

(e) The commissioner of the Department of Vocational Rehabilitation;

(f) The director of the University Affiliated Program at the Interdisciplinary Human Development Institute of the University of Kentucky;

(g) The director of the ***Kentucky Council on*** Developmental Disabilities[~~ Council~~];

(h) Two (2) members of the House of Representatives, appointed by the Speaker of the House;

(i) Two (2) members of the Senate, appointed by the Senate President; and

(j) Public members, appointed by the Governor as follows:

1. Five (5) family members, at least one (1) of whom shall be a member of a family with a child with mental retardation or other developmental disabilities, and one (1) of whom shall be a member of a family with an adult with mental retardation or other developmental disabilities. Of these five (5) family members, at least two (2) shall be members of a family with an individual with mental retardation or other developmental disabilities residing in the home of the family member or in a community-based setting, and at least two (2) shall be members of a family with an individual with mental retardation or other mental disabilities residing in an institutional residential facility that provides service to individuals with mental retardation or other developmental disabilities;

2. Three (3) persons with mental retardation or other developmental disabilities;

3. Two (2) business leaders;

4. Three (3) direct service providers representing the Kentucky Association of Regional Programs and the Kentucky Association of Residential Resources; and

5. One (1) representative of a statewide advocacy group.

The six (6) appointments made under subparagraphs 1. and 2. of this paragraph shall be chosen to reflect representation from each of Kentucky's six (6) congressional districts.

(2) The secretary of the Cabinet for Health Services shall serve as chair of the commission.

(3) Members defined in paragraphs (a) to (i) of subsection (1) of this section shall serve during their terms of office. All public members appointed by the Governor shall serve a four (4) year term and may be reappointed.

(4) All public members of the commission shall receive twenty-five dollars ($25) per day for attending each meeting. All commission members shall be reimbursed for necessary travel and other expenses actually incurred in the discharge of duties of the commission.

Section 4. KRS 210.775 is amended to read as follows:

(1) There is hereby created the State Supported Living Council for services to persons with a disability and their families.

(2) (a) The State Supported Living Council shall be composed of ten (10) members. The commissioner of the Department for Mental Health and Mental Retardation Services and the executive director of the Kentucky Housing Corporation or their designees shall be ex-officio members.

(b) Eight (8) of the members shall be volunteers and shall be appointed by the Governor from a list of nominees in the following manner:

1. Three (3) of the appointed members shall represent family members of persons with a disability. One (1) member shall be selected from each of three (3) lists containing two (2) nominees submitted by each of the following associations: the Kentucky Association for Retarded Citizens, the Association for Persons with Severe Handicaps, and the Mental Health Coalition;

2. One (1) of the appointed members shall represent family members of persons with a disability who reside in an intermediate care facility for mental retardation or developmental disabilities. The nominee shall be selected from a list containing two (2) nominees submitted by each of the following associations: Concerned Parents of Hazelwood, Parents and Relatives of Oakwood Facility, and Concerned Parents of Outwood;

3. Two (2) of the appointed members shall be persons with a disability. They shall be selected from a list containing two (2) nominees submitted by each of the following associations: the Kentucky Campaign for

Personal Attendant Care, the Kentucky Association for Retarded Citizens, the Mental Health Coalition, and the Kentucky Disabilities Coalition;

4. One (1) of the appointed members shall represent professionals and providers of services to persons with a disability. The nominee shall be selected from a list containing two (2) nominees submitted by each of the following associations: the Kentucky Association of Private Residential Resources and the Kentucky Association on Mental Retardation; and

5. One (1) of the appointed members shall represent advocates for persons with a disability. The nominee shall be selected from a list containing two (2) nominees submitted by each of the following entities: the Division of Protection and Advocacy and the Kentucky ***Council on*** Developmental Disabilities[~~ Council~~].

(3) The appointed members may serve on the council for three (3) years. Members may be reappointed for a maximum of two (2) consecutive terms. The Governor shall fill any vacancy occurring in the council in the manner prescribed in subsection (2) of this section.

(4) The Department for Mental Health and Mental Retardation Services shall provide staff assistance to the State Supported Living Council.

(5) The chairman of the State Supported Living Council shall be elected from among the members. A majority of the members shall constitute a quorum.

(6) The State Supported Living Council shall meet as often as necessary but no less frequently than every other month.

Section 5. The General Assembly confirms Executive Order 2001-1173 dated September 14, 2001, by which the Developmental Disabilities Council was reorganized to the extent that it is not otherwise confirmed by this Act.

The Committee on Banking and Insurance reported **HB 368, HB 510,** with Committee Substitute and Committee Amendment attached thereto, **HB 649,** and **HB 698,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 368, AN ACT relating to health benefit plan coverage of infertility.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A health benefit plan issued or renewed on or after the effective date of this Act that provides pregnancy-related benefits shall contain coverage for the diagnosis and treatment of infertility including, but not limited to, the following:

(a) Diagnosis and diagnostic tests;

(b) Medications;

(c) Surgery;

(d) In vitro fertilization;

(e) Uterine embryolavage;

(f) Embryo transfer;

(g) Artificial insemination;

(h) Gamete intrafallopian tube transfer;

(i) Zygote intrafallopian tube transfer;

(j) Intracytoplasmic sperm injection;

(k) Four (4) completed egg retrievals per lifetime, except as may be allowed under subsection (2)(b) of this section; and

(l) Low tubal ovum transfer.

(2) The coverage required under subsection (1) of this section may be subject to the conditions set out in this subsection. Coverage for procedures for in vitro fertilization, gamete intrafallopian tube transfer, or zygote intrafallopian tube transfer may be required only if:

(a) The covered individual has been unable to attain or sustain a successful pregnancy through reasonable, less costly medically appropriate infertility treatments for which coverage is available under the policy, plan, or contract;

(b) The covered individual has not undergone four (4) completed egg retrievals, except that if a live birth follows a completed egg retrieval, then two (2) more completed egg retrievals shall be covered; and

(c) The covered individual is forty-five (45) years of age or younger.

(3) The procedures required to be covered under this section shall not be required to be contained in any policy or plan issued to or by a religious institution or organization or to or by an entity sponsored by a religious institution or

organization that finds the procedures required to be covered under this section to violate its religious and moral teachings and beliefs.

(4) The covered benefits provided under this section shall be to the same extent as for other pregnancy-related procedures under the health benefit plan, except that the services provided under this section shall be performed at facilities that conform to standards established by the American Society for Reproductive Medicine or the American College of Obstetricians and Gynecologists.

(5) For purposes of this section, "infertility" means the disease or condition that results in the abnormal function of the reproductive system such that a person is not able to:

(a) Impregnate another person;

(b) Conceive after one (1) year of unprotected sexual intercourse; or

(c) Carry a pregnancy to live birth.

HB 510, AN ACT relating to cancellation of health insurance policies and contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any insurer delivering or issuing an individual health insurance policy subject to this subtitle shall give the policyholder or contract holder at least forty-five (45) days' advance written notice of cancellation. The notice shall be mailed to the policyholder's or contract holder's last address as shown by the records of the insurer. However, if cancellation is for nonpayment of premium, intentional misrepresentation of material fact under the terms of coverage, fraud, or the policyholder or contract holder has engaged in intentional and abusive noncompliance with material provisions of the policy, the written notice required by this section need not be mailed to the policyholder or contract holder.

(2) In the event of cancellation, the insurer shall return promptly the unearned portion of any premium paid. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.

(3) If the insurer fails to provide the forty-five (45) days' notice required by this section, the coverage shall remain in effect at the existing premium until forty-five (45) days after the notice is given or until the effective date of replacement coverage obtained by the insured, whichever occurs first.

(4) The effective date of cancellation of individual health insurance policies under this section may be retroactive to the date through which the premium has been paid.

SECTION 2. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any insurer delivering or issuing a group or blanket health insurance policy subject to this subtitle shall give the policyholder or contract holder at least forty-five (45) days' advance written notice of cancellation. The notice shall be mailed to the policyholder's or contract holder's last address as shown by the records of the insurer. However, if cancellation is for nonpayment of premium, intentional misrepresentation of material fact under the terms of coverage, fraud, or the policyholder or contract holder has engaged in intentional and abusive noncompliance with material provisions of the policy, the written notice required by this section need not be mailed to the policyholder or contract holder.

(2) On and after January 1, 2003, every insurer offering group or blanket health insurance coverage in the Commonwealth shall include in its contract with policyholders or contract holders, regardless of the situs of the contract, a provision requiring the policyholder or contract holder to mail promptly to each person covered under the group or blanket policy or contract a legible, true copy of any notice of cancellation of the coverage which may be received from the insurer and to provide promptly to the insurer proof of that mailing and the date thereof. The notice of cancellation mailed by the group or blanket policyholder or contract holder to each person covered under the policy or contract shall include information regarding the conversion rights of covered persons upon termination of the group or blanket policy or contract. This information shall be in clear and easily understandable language.

(3) In the event of cancellation, the insurer shall return promptly the unearned portion of any premium paid. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.

(4) If the insurer fails to provide the forty-five (45) days' notice required by this section, the coverage shall remain in effect at the existing premium until forty-five (45) days after the notice is given or until the effective date of replacement coverage obtained by the insured, whichever occurs first.

(5) The effective date of cancellation of group or blanket health insurance policies under this section may be retroactive to the date through which the premium has been paid.

SECTION 3. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any health maintenance organization subject to this subtitle shall give the enrollee or group contract holder at least forty-five (45) days' advance written notice of cancellation. The notice shall be mailed to the enrollee's or group contract holder's last address as shown by the records of the health maintenance organization. However, if

cancellation is for nonpayment of premium, intentional misrepresentation of material fact under the terms of coverage, fraud, or the enrollee has engaged in intentional and abusive noncompliance with material provisions of the contract, the written notice required by this section need not be mailed to the enrollee or group contract holder.

(2) On and after January 1, 2003, every health maintenance organization offering group coverage in the Commonwealth shall include in its contract with group contract holders, regardless of the situs of the contract, a provision requiring the group contract holder to mail promptly to each person covered under the group contract a legible, true copy of any notice of cancellation of the group coverage which may be received from the health maintenance organization and to provide promptly to the health maintenance organization proof of that mailing and the date thereof. The notice of cancellation mailed by the group contract holder to each person covered under the group contract shall include information regarding the conversion rights of covered persons upon termination of the group contract. This information shall be in clear and easily understandable language.

(3) In the event of cancellation, the health maintenance organization shall return promptly the unearned portion of any premium paid. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.

(4) If the health maintenance organization fails to provide the forty-five (45) days' notice required by this section, the coverage shall remain in effect at the existing premium until forty-five (45) days after the notice is given or until the effective date of replacement coverage obtained by the enrollee or group contract holder, whichever occurs first.

(5) The effective date of cancellation of contracts under this section may be retroactive to the date through which the premium has been paid.

Section 4. KRS 304.17A-245 is amended to read as follows:

(1) Any insurer delivering or issuing a health benefit plan subject to this subtitle or a health insurance policy or contract covering specified disease shall give the policyholder or contract holder at least forty-five (45) days' advance written notice of cancellation. The notice shall be mailed[~~ by registered mail~~] to the policyholder's or contract holder's last address as shown by the records of the insurer. However, if cancellation is for nonpayment of premium, ***intentional misrepresentation of material fact under the terms of coverage, fraud, or the policyholder or contract holder has engaged in intentional and abusive noncompliance with material provisions of the health benefit plan, the written notice required by this section need not be mailed to the policyholder or contract holder***[~~at least fourteen (14) days' written notice accompanied by the reason therefor shall be given. Written notice of cancellation for nonpayment of premium shall not be required for health insurance policies in the individual market under which premiums are payable monthly or more frequently and regularly collected by a licensed agent~~].

(2) On and after January 1, 2001, every insurer offering group health insurance coverage in the Commonwealth shall include in its contract with group policyholders or contract holders, regardless of the situs of the contract, a provision requiring the group policyholder or contract holder to mail promptly to each person covered under the group policy or contract a legible, true copy of any notice of cancellation of the group coverage which may be received from the insurer and to provide promptly to the insurer proof of that mailing and the date thereof. The notice of cancellation mailed by the group policyholder or contract holder to each person covered under the group policy or contract shall include information regarding the conversion rights of covered persons upon termination of the group policy or contract. This information shall be in clear and easily understandable language.

(3) In the event of cancellation, the insurer shall return promptly the unearned portion of any premium paid. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.

(4) If the insurer fails to provide the forty-five (45) days' notice required by this section, the coverage shall remain in effect at the existing premium until forty-five (45) days after the notice is given or until the effective date of replacement coverage obtained by the insured, whichever occurs first.

(5) The effective date of cancellation of health benefit plans under this section may be retroactive to the date through which the premium has been paid.

The Committee Substitute to **HB 510** is as follows:

HB 510, AN ACT relating to cancellation of health insurance policies and contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17A-245 is amended to read as follows:

(1) ***Except as provided in subsection (2) of this section, an***[~~Any~~] insurer delivering or issuing a health benefit plan subject to this subtitle or a health insurance policy[~~ or contract covering specified disease~~] shall give the policyholder or contract holder at least ***thirty (30)***[~~forty-five (45)~~] days' advance written notice of cancellation. The notice shall be mailed by ***regular United States first class***[~~registered~~] mail to the policyholder's or contract holder's last address as shown by the records of the insurer. ***If premium has been paid, the insurer shall pay all claims through the conclusion of the thirty (30) day notice period, except for as provided in KRS 304.14-110.***

(2) [~~However, ~~]If cancellation is for nonpayment of premium, ***the insurer shall give the policyholder or contract holder at***

least thirty (30) days' written notice of cancellation. The cancellation shall be mailed by regular United States first class mail. If premium is not paid at the conclusion of the thirty (30) day grace period, the policy automatically terminates to the last date through which premium was paid. The insurer shall clearly state, in the thirty (30) day notice of termination, that if premium is not received by the end of the thirty (30) day grace period, the policy automatically terminates to the last date through which premium was paid[~~at least fourteen (14) days' written notice accompanied by the reason therefor shall be given. Written notice of cancellation for nonpayment of premium shall not be required for health insurance policies in the individual market under which premiums are payable monthly or more frequently and regularly collected by a licensed agent~~].

(3)[~~(2)~~] *If the group policy has been canceled, the insurer shall notify each group member of his right to conversion pursuant to KRS 304.18-110 within fifteen (15) business days after the end of the grace period.* On and after January 1, 2001, every insurer offering group health insurance coverage in the Commonwealth shall include in its contract with group policyholders or contract holders, regardless of the situs of the contract, a provision requiring the group policyholder or contract holder to mail promptly to each person covered under the group policy or contract a legible, true copy of any notice of cancellation of the group coverage which may be received from the insurer and to provide promptly to the insurer proof of that mailing and the date thereof. The notice of cancellation mailed by the group policyholder or contract holder to each person covered under the group policy or contract shall include information regarding the conversion rights of covered persons upon termination of the group policy or contract. This information shall be in clear and easily understandable language.

(4) All group contracts shall include an automatic termination provision if premium amounts are not received by the end of the grace period.

(5)[~~(3)~~] In the event of cancellation, the insurer shall return promptly the unearned portion of any premium paid. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.

(6)[~~(4)~~] If the insurer fails to provide the *thirty (30)*[~~forty five (45)~~] days' notice required by this section, the coverage shall remain in effect at the existing premium until *thirty (30)*[~~forty five (45)~~] days after the notice is given or until the effective date of replacement coverage obtained by the insured, whichever occurs first.

(7) In the case of nonpayment of premium, all group contracts shall include an insurer's reinstatement policy for a contract holder or policyholder. An insurer shall not deny a contract holder or policyholder reinstatement based on any health-related factor listed in KRS 304.17A-200 or consideration of medical loss ratio.

SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

If premium is not paid by the premium due date, an insurer shall allow for a thirty (30) day grace period for which payments shall be paid by the policyholder or contract holder prior to termination of the policy.

Section 3. KRS 304.18-125 is amended to read as follows:

(1) [~~If a group policy provides for automatic discontinuance of the policy after a premium charge has not been paid through a grace period allowed for the payment,~~]The insurer shall be liable for valid claims for covered losses incurred prior to the end of the grace period if the premium charge is paid prior to the end of the grace period.

(2)[~~If the actions of the insurer after the end of the grace period indicate that it considers the policy as continuing in force beyond the end of the grace period, such as by continuing to recognize claims incurred after the end of the grace period, the insurer shall be liable for valid claims for losses beginning prior to the effective date of written notice of discontinuance to the policyholder or other person responsible for making premium payments to the insurer. The effective date of discontinuance shall not be prior to midnight at the end of the tenth scheduled work day after the date upon which the notice is mailed or delivered to the last known address of the policyholder or person responsible for making premium payments.~~

~~(3)~~] This section shall not eliminate the responsibility of the insurer to notify persons of the right to continue or convert group health insurance coverage pursuant to KRS 304.18-110 and 304.18-120.

Section 4. KRS 304.17A-240 is amended to read as follows:

(1) Except as provided in this section, an insurer shall renew or continue in force a health benefit plan at the option of the insured.

(2) An insurer may nonrenew*, cancel,* or discontinue a health benefit plan based only on one (1) or more of the following:

(a) The insured has failed to pay premiums or contributions in accordance with the terms of the plan or the insurer has not received timely premium payments;

(b) The insured has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage;

(c) The insured has engaged in intentional and abusive noncompliance with material provisions of the health benefit plan;

(d) The insurer is ceasing to offer coverage in the individual or group market in accordance with subsection (3) of this section;

(e) In the case of an insurer that offers health benefit plans through a network plan, the individual no longer resides, lives, or works in the service area or in an area for which the insurer is authorized to do business, but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals, or there is no longer any enrollee in connection with the group plan who resides, lives, or works in the service area of the insurer; or

(f) In the case of a health benefit plan that is made available only through one (1) or more bona fide associations, the membership of the individual or employer in the association on the basis of which the coverage is provided ceases, but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

(3) (a) In any case in which an insurer decides to discontinue offering a particular type of health benefit plan, coverage of the type may be discontinued by the insurer upon approval by the commissioner only if:

1. The insurer provides notice to each insured provided coverage of this type in the market of the discontinuation at least ninety (90) days prior to the date of the discontinuation of the coverage;

2. The insurer offers, to each insured provided coverage of this type, the option to purchase any other health benefit plan currently of that type being offered by the insurer in that market; and

3. In exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph 2. of this paragraph, the insurer acts uniformly without regard to any health status-related factor of enrolled insureds or insureds who may become eligible for coverage.

(b) 1. Subject to paragraph (a)3. of this subsection, in any case in which an insurer elects to discontinue offering all health benefit plans in Kentucky, health benefit plans may be discontinued by the insurer only if:

a. The insurer provides notice to the commissioner and to each insured of the discontinuation at least one hundred eighty (180) days prior to the date of the expiration of the coverage; and

b. All health benefit plans issued or delivered for issuance in Kentucky are discontinued and coverage under the health benefit plans is not renewed.

2. In the case of a discontinuation under subparagraph 1. of this paragraph, the insurer may not provide for the issuance of any health benefit plans in Kentucky during the five (5) year period beginning on the date of the discontinuation of the last health benefit plan not so renewed.

(4) At the time of coverage renewal, an insurer may modify, with approval of the commissioner, the health benefit plan for a policy form so long as the modification is consistent with this chapter and effective on a uniform basis among all individuals with that policy form.

(5) In applying this section in the case of a health benefit plan that is made available by an insurer only through one (1) or more associations, a reference to an individual is deemed to include a reference to an association of which the individual is a member, and a reference to an employer member is deemed to include a reference to the employer.

The Committee Amendment No. 1 Title to **HB 510** is as follows:

Amend the title to read as follows: "AN ACT relating to health insurance."

HB 649, AN ACT relating to Article 9 of the Uniform Commercial Code and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 355.9-109 is amended to read as follows:

(1) Except as otherwise provided in subsections (3) and (4) of this section, this article applies to:

(a) A transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;

(b) An agricultural lien;

(c) A sale of accounts, chattel paper, payment intangibles, or promissory notes;

(d) A consignment;

(e) A security interest arising under KRS 355.2-401, 355.2-505, 355.2-711(3), or 355.2A-508(5), as provided in KRS 355.9-110; and

(f) A security interest arising under KRS 355.4-210 or 355.5-118.

(2) The application of this article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this article does not apply.

(3) This article does not apply to the extent that:

(a) A statute, regulation, or treaty of the United States preempts this article;

(b) Another statute of this Commonwealth expressly governs the creation, perfection, priority, or enforcement of a security interest created by this Commonwealth or a governmental unit of this Commonwealth;

(c) A statute of another state, a foreign country, or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority, or enforcement of a security interest created by the state, country, or governmental unit; or

(d) The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under KRS 355.5-114.

(4) This article does not apply to:

(a) A landlord's lien, other than an agricultural lien;

(b) A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but KRS 355.9-333 applies with respect to priority of the lien;

(c) An assignment of a claim for wages, salary, or other compensation of an employee, or for workers' compensation benefits payable to an individual;

(d) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;

(e) An assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only;

(f) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;

(g) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;

(h) A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but KRS 355.9-315 and 355.9-322 apply with respect to proceeds and priorities in proceeds;

(i) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

(j) A right of recoupment or set-off, but:

1. KRS 355.9-340 applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and

2. KRS 355.9-404 applies with respect to defenses or claims of an account debtor;

(k) The creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:

1. Liens on real property in KRS 355.9-203 and 355.9-308;

2. Fixtures in KRS 355.9-334;

3. Fixture filings in KRS 355.9-501, 355.9-502, 355.9-512, 355.9-516, and 355.9-519; and

4. Security agreements covering personal and real property in KRS 355.9-604;

(l) An assignment of a claim arising in tort, other than a commercial tort claim, but KRS 355.9-315 and 355.9-322 apply with respect to proceeds and priorities in proceeds;

(m) An assignment of a deposit account in a consumer transaction, but KRS 355.9-315 and 355.9-322 apply with respect to proceeds and priorities in proceeds;

(n) A claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. sec. 104(a)(1) or (2), as amended from time to time;

(o) A claim or right to receive benefits under a special needs trust as described in 42 U.S.C. sec. 1396p(d)(4), as amended from time to time;[~~ or~~]

(p) A right to receive money under a structured settlement as defined by KRS 454.430*; or*

(q) A public-finance transaction or a transfer by a government or governmental unit.

Section 2. Whereas Kentucky state and local government issuers of debt are now subject to the perfection and filing requirements of the revised Article 9 of the Uniform Commercial Code and on July 1, 2002, will be required to comply with these requirements with respect to outstanding debt obligations, resulting in an increase in the burdens and costs of borrowing for these state and local governmental entities, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HB 698, AN ACT relating to health maintenance organizations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.38-070 is amended to read as follows:

(1) This subsection applies to a corporation or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization:

(a) Except as provided in paragraph (b) of this subsection, to qualify for authority to act as a health maintenance organization, a corporation or limited liability corporation shall possess and thereafter maintain unimpaired paid-in capital stock of one million dollars ($1,000,000), and, when first so authorized, shall possess initial free surplus of not less than two million dollars ($2,000,000);

(b) A corporation holding a valid certificate of authority to transact business as a health maintenance organization in Kentucky immediately prior to July 15, 1986, may, if otherwise qualified therefor, continue to be so authorized while meeting the requirements for protection against insolvency required for such authority immediately prior to July 15, 1986. Notwithstanding the other provisions hereof, the exception provided in this paragraph shall cease to apply to any such health maintenance organization from and after the date it has accumulated capital and surplus equal to or in excess of the capital and surplus required by paragraph (a) of this subsection; and

(c) Each corporation authorized as a health maintenance organization shall at all times maintain bona fide additional surplus in the amount of two hundred fifty thousand dollars ($250,000) and shall at all times comply with the risk-based capital requirements as established in administrative regulations promulgated by the commissioner. A corporation holding a valid certificate of authority to transact business as a health maintenance organization in Kentucky immediately prior to July 15, 1986, may, if otherwise qualified therefor, continue to be so authorized while meeting the requirements for protection against insolvency as required for such authority immediately prior to July 15, 1986. The exception provided in this paragraph shall cease to apply to any such health maintenance organization from and after the date upon which it has accumulated additional surplus equal to or in excess of the additional surplus required by this subsection.

(2) This subsection applies to a partnership applying for or holding a certificate of authority as a health maintenance organization:

(a) Except as provided in paragraph (b) of this subsection, to qualify for authority to act as a health maintenance organization, a partnership shall possess, when first so authorized, a total of at least three million dollars ($3,000,000) in its capital accounts. Thereafter, a partnership authorized as a health maintenance organization shall possess and maintain a total of at least one million two hundred fifty thousand dollars ($1,250,000) in its capital accounts and shall comply at all times with the risk-based capital requirement established in administrative regulations promulgated by the commissioner;

(b) A partnership holding a valid certificate of authority to transact business as a health maintenance organization in Kentucky immediately prior to July 15, 1986, may, if otherwise qualified therefor, continue to be so authorized while meeting the requirements for protection against insolvency required for such authority immediately prior to July 15, 1986. The exception provided for in this paragraph shall cease to apply to any such health maintenance organization from and after the date upon which the total of the funds which it has accumulated in its capital accounts equal or exceed the total of the funds in its capital accounts required by this subsection.

(3) A corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization which by contract manages care and processes health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program shall comply with risk-based capital (RBC) requirements as follows:

(a) For purposes of this subsection, risk-based capital shall be determined in accordance with 806 KAR 38:100. Except for subsection (11)(c) of Section 1. and Section 11. of 806 KAR 38:100, a corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization which by contract manages care and processes health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program shall comply with 806 KAR 38:100;

(b) For the risk-based capital reports required to be filed by health maintenance organizations which manage care and process health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program, the risk-based capital levels shall be defined as follows:

1. "Company Action Level RBC" means the product of two (2.0) and its Authorized Control Level RBC;

2. "Regulatory Action Level RBC" means the product of one and five-tenths (1.5) and its Authorized Control Level RBC;

3. "Authorized Control Level RBC" means the product of four-tenths (.40) and the risk-based capital after covariance determined under the risk-based capital formula in accordance with the RBC instruction; and

4. "Mandatory Control Level RBC" means the product of seven-tenths (.70) and the Authorized Control Level RBC; and *(c) A corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization managing care, processing health care claims, or providing health benefits to groups or individuals in addition to Medicaid-eligible and Kentucky Children's Health Insurance Program enrollees shall comply with the risk-based capital requirements of subsection (1) of this section and 806 KAR 38:100 and shall not be eligible to calculate its risk-based capital according to this subsection.*

The Committee on Licensing and Occupations reported **HB 668,** with Committee Substitute attached thereto, and **HB 676,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 668, AN ACT relating to private fire and explosion investigators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 329A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 16 of this Act:

(1) "Board" means the Kentucky Board of Licensure for Private Fire and Explosion Investigators;

(2) "Company" means a firm, association, sole proprietorship, partnership, corporation, nonprofit organization, institution, or similar enterprise;

(3) "Investigating company" or "company licensee" means a company engaged in private fire and explosion investigating that is licensed under Sections 1 to 16 of this Act;

(4) "Moral turpitude" means:

(a) An act of baseness, vileness, or depravity in the private or social duties owed between persons or to society in general; or

(b) Anything done knowingly contrary to justice, honesty, principle, or good morals;

(5) "Private fire and explosion investigating" means the act of any individual or company engaging in the business of obtaining or furnishing information with reference to:

(a) Crimes or wrongs done or threatened against the United States or any state or territory of the United States;

(b) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person;

(c) The location, disposition, or recovery of lost or stolen property; or

(d) The cause or responsibility for fires, losses, accidents, injuries, or libels to persons or to property;

(6) "Private fire and explosion investigator" or "individual licensee" means a person who is engaged in private fire and explosion investigating and licensed in accordance with the provisions of Sections 1 to 16 of this Act; and

(7) "Qualifying agent" means a principal corporate officer including but not limited to the chief executive officer, vice president, treasurer-secretary, comptroller, or any other responsible officer or executive employee, who is designated by the corporation to represent it in matters relating to Sections 1 to 16 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

No person or company shall hold himself or herself out to the public as a private fire and explosion investigator or use any terms, titles, or abbreviations that express, infer, or imply that the person is licensed as a private fire and explosion investigator unless the person at the time holds a license to practice private fire and explosion investigating issued and validly existing under the laws of this Commonwealth as provided in this chapter. All applicants shall pass a criminal background check based on criteria established under Section 6 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Board of Licensure for Private Fire and Explosion Investigators is hereby created.

(2) The board shall consist of nine (9) members appointed by the Governor:

(a) One (1) member shall be an employee of the Kentucky State Fire Marshal's Office;

(b) One (1) member shall be an attorney experienced in fire, arson, and explosion cases;

(c) One (1) member shall be a municipal fire officer of the rank of captain or above;

(d) Two (2) members shall be insurance representatives;

(e) Three (3) members shall each have been private fire or explosion investigators for at least five (5) years prior to the date of their appointment and shall be of recognized business standing; and

(f) One (1) member shall be a citizen at large who is not associated with or financially interested in the practice of fire and explosion investigating.

(3) All members shall be residents of this state and possess good moral character.

(4) The original members of the board shall be appointed by no later than December 31, 2002, as follows:

(a) Three (3) members to a one (1) year term;

(b) Two (2) members to a two (2) year term;

(c) Two (2) members to a three (3) year term; and

(d) Two (2) members to a four (4) year term.

(5) After the initial appointments to the board, all members shall serve a two (2) year term.

(6) Any vacancy occurring on the board shall be filled by the Governor.

(7) The three (3) board members who are private fire or explosion investigators and the member at large shall receive the sum of one hundred dollars ($100) per day for each day the board meets. All members shall receive reimbursement for actual and necessary expenses incurred in the performance of their official duties.

(8) The board shall annually elect a chair, a vice chair, and a secretary-treasurer from the membership of the board.

(9) The board shall hold at least two (2) meetings annually and additional meetings as the board may deem necessary. Additional meetings may be held upon a call of the chair or upon written request of a quorum. Five (5) members of the board shall constitute a quorum to conduct business.

(10) Upon recommendation of the board, the Governor may remove any member of the board for neglect of duty or malfeasance in office.

(11) The board may purchase professional liability insurance for the board members and agents and staff of the board.

SECTION 4. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) The board shall administer and enforce the provisions of Sections 1 to 16 of this Act and shall evaluate the qualifications of applicants for licensure and issue licenses.

(2) The board shall:

(a) Implement the provisions of Sections 1 to 16 of this Act through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A;

(b) Promulgate administrative regulations to establish fees which shall not exceed amounts necessary to generate sufficient funds to effectively carry out and enforce the provisions of Sections 1 to 16 of this Act;

(c) Promulgate by administrative regulation an examination to be administered at least twice annually to license applicants and which shall be designed to measure knowledge and competence in private fire and explosion investigating; and

(d) Promulgate by administrative regulation a code of professional practice and conduct that shall be based upon generally accepted principles of ethical conduct and be binding upon all licensees.

(3) The board may:

(a) Contract with the Division of Occupations and Professions within the Finance and Administration Cabinet for the provision of administrative services;

(b) Employ any person it deems necessary to carry on the work of the board and define their duties and compensation;

(c) Develop and sponsor at least forty (40) hours of continuing professional education annually;

(d) Renew licenses and require continuing professional education as a condition for renewal;

(e) Suspend or revoke licenses, impose supervisory or probationary conditions upon licensees, impose administrative disciplinary fines, issue written reprimands, or any combination thereof;

(f) Issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of Sections 1 to 16 of this Act;

(g) Conduct hearings pursuant to KRS Chapter 13B and keep records and minutes necessary to carry out the functions of the board;

(h) Organize itself into two (2) panels to separate the functions of inquiry and hearings. Each panel shall have the power to act as either an inquiry or hearing panel. No member serving on the inquiry panel shall serve on the hearing panel for any one (1) particular case. Any final decision of the hearing panel shall be considered as the final decision of the board and the hearing panel may exercise all powers granted to the board pursuant to KRS Chapter 13B;

(i) Utilize mediation as a technique to resolve disciplinary matters;

(j) Seek injunctive relief in Franklin Circuit Court to stop the unlawful practice of private fire and explosion investigating by unlicensed persons or companies; and

(k) Negotiate and enter into reciprocal agreements with appropriate officials in other states to permit licensed private fire and explosion investigators and investigating companies who meet or exceed the qualifications established in Sections 1 to 16 of this Act to operate across state lines under mutually acceptable terms.

SECTION 5. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) All fees and other moneys received by the board pursuant to the provisions of Sections 1 to 16 of this Act shall be deposited in the State Treasury to the credit of a revolving fund for the use of the board.

(2) No part of this fund shall revert to the general fund of the Commonwealth.

(3) The fund may be used to pay for:

(a) The compensation and reimbursement of board members for actual and necessary expenses incurred in the performance of official duties;

(b) The compensation of all of the employees of the board;

(c) Those operational and capital expenses incurred in fulfilling the board's duties as described in Sections 1 to 16 of this Act and in administrative regulations promulgated thereunder; and

(d) The development or sponsorship of continuing education courses annually, to be conducted at the Kentucky State Fire Marshal's Office in Frankfort, Kentucky.

SECTION 6. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) An application for a private fire and explosion investigator license shall be filed with the board on the prescribed form.

(a) The application shall include the following information regarding the applicant:

1. Full name and address;

2. Date and place of birth;

3. All residences during the past five (5) years;

4. All employment or occupations engaged in during the past five (5) years;

5. Three (3) sets of classifiable fingerprints;

6. Three (3) credit references from lending institutions or business firms with whom the subject has established a credit record; and

7. Any other information as the board may deem reasonably required by administrative regulation.

(b) The application shall be subscribed and sworn to by the applicant.

(2) An application for a private fire and explosion investigating company license shall be filed with the board on the prescribed form.

(a) The application shall include:

1. The information required in subsection (1)(a) of this section for:

a. The owner, if the company is a sole proprietorship;

b. Each partner, if the company is a partnership; or

c. The qualifying agent, if the company is a corporation;

2. The name under which the company intends to do business;

3. The address of the principal place of business and any branch offices of the company within this state; and

4. Other information as the board may reasonably require by administrative regulation.

(b) If the company is a corporation, the following information is also required:

1. The correct legal name of the corporation;

2. The state and date of incorporation;

3. The date the corporation qualified to do business in this state;

4. The address of the corporate headquarters, if located outside of this state;

5. The names of two (2) principal corporate officers other than the qualifying agent, their business addresses, residence addresses, and the office held by each in the corporation; and

6. The identity and license number of all private investigators employed by or affiliated with the company.

(c) The application shall be subscribed and sworn to by:

1. The owner, if the applicant is a sole proprietorship;

2. Each partner, if the applicant is a partnership; or

3. The qualifying agent, if the applicant is a corporation.

(3) Each applicant for an individual license to practice private fire and explosion investigating, or each owner, partner, or qualifying agent for a company license shall:

(a) Be at least twenty-one (21) years of age;

(b) Be a citizen of the United States or a resident alien;

(c) Not have been convicted of a felony in this or any other state or territory or by the federal government;

(d) Not have been convicted of a misdemeanor involving moral turpitude;

(e) Not have been declared by any court of competent jurisdiction to be incompetent by reason of mental defect or disease unless a court of competent jurisdiction has since declared the applicant to be competent;

(f) Not have been voluntarily or involuntarily committed to a facility or outpatient program for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances within a three (3) year period immediately preceding the date on which the application is submitted;

(g) Not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding his or her application or if the applicant has been committed as an alcoholic pursuant to KRS Chapter 222, or similar laws of any other state, within the three (3) year period immediately preceding the date on which the application is submitted;

(h) Be of good moral character;

(i) Pass an examination designed to measure knowledge and competence in the investigations field; and

(j) Submit proof of insurance coverage in the amount of at least one million dollars ($1,000,000) that:

1. Provides general liability insurance or other equivalent guarantee; and

2. Insures for liability resulting from errors or omissions in the performance of the duties of a private fire and explosion investigator.

(4) The board shall maintain the confidentiality of information relating to the licensee, except that the board may provide this information to local, state, or federal law enforcement agencies.

SECTION 7. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) Upon receipt of a license application, accompanied by a nonrefundable, nonproratable fee of not less than one hundred dollars ($100) and not more than five hundred dollars ($500), as established by the board by promulgation of administrative regulations, the board shall:

(a) Conduct an investigation to determine whether the statements made in the application are true; and

(b) Submit the application, including fingerprints, to the Kentucky State Police for a state criminal history background check. The Kentucky State Police may submit fingerprints of any applicant to the Federal Bureau of Investigation for a national criminal history background check. The board may by administrative regulation impose additional qualifications to meet the requirements of Pub. L. No. 92-544. The applicant for licensure shall bear the additional cost, in an amount not to exceed the actual cost, incurred for the criminal background check.

(2) Following the investigation process, the board shall either deny or approve the application.

(a) If the application for a license is denied, the board:

1. Shall notify the applicant in writing and set forth the grounds for denial. If the grounds are subject to correction by the applicant, the notice of denial shall so state and specify a reasonable period of time within which the applicant must make the correction; and

2. Shall grant a hearing to the denied applicant in accordance with the provisions of KRS Chapter 13B.

(b) If the application for a license is approved, the board shall issue:

1. A license to be posted conspicuously in the licensee's principal place of business; and

2. A wallet-sized laminated identification card to each individual licensee to be carried while engaged in private investigation. Information on the card shall include the expiration date of the license and the licensee's:

a. Name;

b. Photograph;

c. Physical characteristics; and

d. License number.

SECTION 8. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) A license or renewal issued under Sections 1 to 16 of this Act shall be valid for two (2) years from the date of issuance. No later than May 1 in the license renewal year, the board shall send a renewal application form to the address on file for each licensee. The renewal application shall indicate if the licensee is required to submit passport-sized photographs for a new identification card.

(2) All renewal applications shall be received by the board on or before June 30 in the year of renewal.

(3) Each company license renewal shall include a notarized statement sworn to by the representative prescribed in subsection (2)(c) of Section 6 of this Act stating the identity and license number of each private investigator employed by or affiliated with the company.

(4) The fee for the timely renewal of a license shall be not less than fifty dollars ($50) and not more than two hundred fifty dollars ($250), as established by the board by promulgation of administrative regulations.

(5) For individual licensees, the board shall, at its discretion, issue either a new identification card or a renewal stamp or sticker to be affixed to the existing card.

(6) A grace period shall be allowed until September 1 of the license renewal year, during which time licensees may continue to practice and may renew their licenses upon payment of the renewal fee plus a late fee as promulgated by administrative regulation of the board.

(7) All licenses not renewed by September 1 of the renewal year shall terminate based on the failure to renew in a timely manner. Upon termination, the licensee is no longer eligible to practice in this state.

(8) After September 1 of the renewal year, former licensees with a terminated license may have their licenses reinstated upon payment of the renewal fee plus a reinstatement fee as promulgated by administrative regulation of the board. If the reinstatement application is made within five (5) years from the date of termination, applicants shall not be required to submit to any examination as a condition for reinstatement.

(9) A revoked license may not be renewed. If it is reinstated, the licensee shall pay the reinstatement fee as set forth in subsection (8) of this section and the renewal fee as set forth in subsection (4) of this section.

(10) A former licensee who fails to reinstate a license within five (5) years after termination may not have it renewed, restored, or reinstated. A person may apply for and obtain a new license by meeting the current requirements for licensure.

(11) The board may require that a person applying for a renewal or reinstatement of licensure show evidence of completion of continuing professional education as prescribed by the board in administrative regulations.

(12) A valid license may be put on inactive status by the licensee at the time of renewal, at a cost to be determined by the board.

SECTION 9. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) If the ownership of a private fire and explosion investigating company changes, the new owner, if not already an individual licensee, shall not operate that company more than thirty (30) days after the date of the ownership change unless, within the thirty (30) day period, the new owner submits an application for a fire and explosion license investigation company.

(a) If the application is submitted, the new owner may continue to operate the company until the application has been finally determined by the board.

(b) The board may extend for a reasonable time the period for submitting an application under this subsection.

(2) If the qualifying agent of a company ceases to perform the duties of an agent on a regular basis, the licensee shall notify the board by certified or registered mail within thirty (30) days and substitute a new qualifying agent within ninety (90) days. The board may extend for a reasonable time the period for obtaining a substitute qualifying agent.

SECTION 10. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

No licensee shall:

(1) Knowingly make a material misrepresentation as to his or her ability to perform the fire and explosion investigation required by a potential client in order to obtain employment;

(2) Continue a fire and explosion investigation for a client when it becomes obvious to the licensee that a successful completion of an investigation is unlikely, unless the licensee advises the client and obtains the client's approval for continuation of the investigation; or

(3) Reveal information obtained for a client during a fire and explosion investigation to another individual, except as required by law.

SECTION 11. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) The board may investigate allegations of licensee wrongdoing upon complaint or upon its own volition. The board shall promulgate administrative regulations regarding the receiving and investigating of complaints.

(2) If the board's investigation reveals evidence supporting the complaint, the board shall set the matter for hearing pursuant to the provisions of KRS Chapter 13B before suspending, revoking, imposing probationary or supervisory conditions or an administrative fine, issuing a written reprimand, or any other combination of actions regarding any license under the provisions of Sections 1 to 16 of this Act.

(3) If, after an investigation that includes an opportunity for the licensee to respond, the board determines that a violation took place but was not of a serious nature, it may issue a written admonishment to the licensee. A copy of the admonishment shall be placed in the board's permanent licensure file. The licensee shall have the right to file a

response to the admonishment within thirty (30) days of its receipt and to have that response placed in the board's permanent licensure file. The licensee may, within thirty (30) days of receipt, file a request for hearing with the board. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing under the provisions of KRS Chapter 13B.

SECTION 12. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) The board may refuse to issue a license, or suspend, revoke, impose probationary conditions upon, impose an administrative fine, issue a written reprimand, or any combination thereof regarding any licensee upon proof that the licensee or applicant has:

(a) Violated any provision of Sections 1 to 16 of this Act or any administrative regulation promulgated by the board;

(b) Knowingly and willfully made a material misstatement in connection with an application for license or renewal;

(c) Been convicted of a felony;

(d) Practiced fraud, deceit, or misrepresentation;

(e) Committed any act that would have been cause for refusal to issue the private fire and explosion investigating license had it existed and been known to the board at the time of issuance;

(f) Been incompetent or negligent in the practice of private fire and explosion investigating; or

(g) Violated the code of ethics promulgated by administrative regulation by the board.

(2) In addition to or in lieu of any other lawful disciplinary action under this section, the board may assess a civil penalty not exceeding seven thousand five hundred dollars ($7,500).

(3) When the board issues a written reprimand to the licensee, a copy of the reprimand shall be placed in the permanent file of the licensee. The licensee shall have the right to submit a response within thirty (30) days of its receipt and to have that response filed in the permanent file.

(4) At any time during the investigative or hearing processes, the board may accept an assurance of voluntary compliance from the licensee if the assurance effectively deals with the complaint.

(5) The board may reconsider, modify, or reverse its probation, suspension, or other disciplinary action.

(6) Any party aggrieved by a disciplinary action of the board may bring an action in Franklin Circuit Court pursuant to the provisions of KRS Chapter 13B.

(7) A license shall be subject to expiration and renewal during any period in which the license is suspended.

SECTION 13. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 16 of this Act do not apply to:

(1) A public accountant, certified public accountant, or the agent of either, performing duties relating to public accountancy;

(2) A state or local peace officer or government employee performing official duties;

(3) A person engaged exclusively in the business of obtaining and furnishing information regarding the financial rating or standing and credit of persons;

(4) An attorney-at-law, or an attorney's agent, performing duties relating to the practice of law;

(5) An insurance company, licensed insurance agent, or staff or independent adjuster if authorized to do business in Kentucky performing investigative duties limited to matters strictly pertaining to an insurance transaction, other than investigations into the cause or origin of a fire or explosion; or

(6) A private business employee conducting investigations relating to the company entity by which he or she is employed.

SECTION 14. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) A licensee shall notify the board in writing within thirty (30) days of:

(a) Any material change in the information previously furnished or required to be furnished to the board;

(b) Any occurrence that could reasonably be expected to affect the licensee's right to a license under Sections 1 to 16 of this Act, including but not limited to any criminal charges placed against any licensee by any person; and

(c) Any judgment received by any person for damages against any licensee.

(2) An investigative company shall notify the board in writing within thirty (30) days of any criminal charges filed against a private fire and explosion investigator employed by or affiliated with the company.

SECTION 15. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

Any person violating Section 2 of this Act shall be guilty of a Class A misdemeanor.

SECTION 16. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

Sections 1 to 16 of this Act may be cited as the Kentucky Private Fire and Explosion

Investigators Licensing Act.

Section 17. Any private fire or explosion investigating firm or private investigator in business in the Commonwealth of Kentucky for at least ten (10) years prior to the effective date of this Act shall receive a license automatically upon filing the appropriate application and paying the appropriate fee by April 1, 2003.

The Committee Substitute to **HB 668** is as follows:

HB 668, AN ACT relating to private fire and explosion investigators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 329A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 16 of this Act:

(1) "Board" means the Kentucky Board of Licensure for Private Fire and Explosion Investigators;

(2) "Commissioner" means the commissioner of the Department of Housing, Buildings and Construction;

(3) "Company" means a firm, association, sole proprietorship, partnership, corporation, nonprofit organization, institution, or similar enterprise;

(4) "Department" means the Department of Housing, Buildings and Construction;

(5) "Investigating company" or "company licensee" means a company engaged in private fire and explosion investigating that is licensed under Sections 1 to 16 of this Act;

(6) "Moral turpitude" means:

- *(a) An act of baseness, vileness, or depravity in the private or social duties owed between persons or to society in general; or*
- *(b) Anything done knowingly contrary to justice, honesty, principle, or good morals;*

(7) "Private fire and explosion investigating" means the act of any individual or company engaging in the business of obtaining or furnishing information with reference to:

- *(a) Crimes or wrongs done or threatened against the United States or any state or territory of the United States;*
- *(b) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person;*
- *(c) The location, disposition, or recovery of lost or stolen property; or*
- *(d) The cause or responsibility for fires, losses, accidents, injuries, or libels to persons or to property;*

(8) "Private fire and explosion investigator" or "individual licensee" means a person who is engaged in private fire and explosion investigating and licensed in accordance with the provisions of Sections 1 to 16 of this Act; and

(9) "Qualifying agent" means a principal corporate officer including but not limited to the chief executive officer, vice president, treasurer-secretary, comptroller, or any other responsible officer or executive employee, who is designated by the corporation to represent it in matters relating to Sections 1 to 16 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

No person or company shall hold himself or herself out to the public as a private fire and explosion investigator or use any terms, titles, or abbreviations that express, infer, or imply that the person is licensed as a private fire and explosion investigator unless the person at the time holds a license to practice private fire and explosion investigating issued and validly existing under the laws of this Commonwealth as provided in this chapter. All applicants shall pass a criminal background check based on criteria established under Section 6 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Board of Licensure for Private Fire and Explosion Investigators is hereby created within the Office of the State Fire Marshal in the Department of Housing, Buildings and Construction.

(2) The board shall consist of the following twelve (12) members:

- *(a) Eight (8) members shall be appointed by the Governor as follows:*
  - *1. One (1) member shall be an attorney familiar with fire, arson, and explosion cases;*
  - *2. One (1) member shall be a municipal fire officer of the rank of major or above;*
  - *3. One (1) member shall be an insurance representative;*
  - *4. Four (4) members shall each have been private fire and explosion investigators for at least five (5) years prior to the date of their appointment and shall be of recognized business standing; and*
  - *5. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice of fire and explosion investigating;*

(b) One (1) member shall be the commissioner or his or her designee who shall serve as the chair;

(c) One (1) member shall be a Kentucky State Police arson/explosives investigator;

(d) One (1) member shall be the state fire marshal or his or her designee; and

(e) One (1) member shall be the president of the Kentucky Chapter of the International Association of Arson Investigators or his or her designee.

(3) All members shall be residents of this state and possess good moral character.

(4) The initial members to be appointed by the Governor shall be appointed by no later than December 31, 2002, as follows:

(a) Two (2) members to a one (1) year term;

(b) Two (2) members to a two (2) year term;

(c) Two (2) members to a three (3) year term; and

(d) Two (2) members to a four (4) year term.

(5) Following the initial appointments, all members shall serve a two (2) year term.

(6) Any vacancy occurring on the board shall be filled by the Governor.

(7) The members who are not salaried governmental employees shall receive the sum of one hundred dollars ($100) per day for each day the board meets. All members shall receive reimbursement for actual and necessary expenses incurred in the performance of their official duties.

(8) The board shall annually elect a chair, a vice chair, and a secretary-treasurer from the membership of the board.

(9) The board shall hold at least two (2) meetings annually and additional meetings as the board may deem necessary. Additional meetings may be held upon a call of the chair or upon written request of a quorum. Seven (7) members of the board shall constitute a quorum to conduct business.

(10) Upon recommendation of the board, the Governor may remove any member of the board for neglect of duty or malfeasance in office.

(11) The board may purchase professional liability insurance for the board members and agents and staff of the board.

SECTION 4. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) The board shall administer and enforce the provisions of Sections 1 to 16 of this Act and shall evaluate the qualifications of applicants for licensure and issue licenses.

(2) The commissioner, upon advice of the board, shall:

(a) Implement the provisions of Sections 1 to 16 of this Act through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A;

(b) Promulgate administrative regulations to establish fees which shall not exceed amounts necessary to generate sufficient funds to effectively carry out and enforce the provisions of Sections 1 to 16 of this Act;

(c) Promulgate by administrative regulation an examination to be administered at least twice annually to license applicants and which shall be designed to measure knowledge and competence in private fire and explosion investigating; and

(d) Promulgate by administrative regulation a code of professional practice and conduct that shall be based upon generally accepted principles of ethical conduct and be binding upon all licensees.

(3) The board may:

(a) Employ any person it deems necessary to carry on the work of the board and define their duties and compensation;

(b) Develop and sponsor at least forty (40) hours of continuing professional education annually;

(c) Renew licenses and require continuing professional education as a condition for renewal;

(d) Suspend or revoke licenses, impose supervisory or probationary conditions upon licensees, impose administrative disciplinary fines, issue written reprimands, or any combination thereof;

(e) Issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of Sections 1 to 16 of this Act;

(f) Conduct hearings pursuant to KRS Chapter 13B and keep records and minutes necessary to carry out the functions of the board;

(g) Organize itself into two (2) panels to separate the functions of inquiry and hearings. Each panel shall have the power to act as either an inquiry or hearing panel. No member serving on the inquiry panel shall serve on the hearing panel for any one (1) particular case. Any final decision of the hearing panel shall be considered as the final decision of the board and the hearing panel may exercise all powers granted to the board pursuant to KRS Chapter 13B;

(h) Utilize mediation as a technique to resolve disciplinary matters;

(i) Seek injunctive relief in Franklin Circuit Court to stop the unlawful practice of private fire and explosion investigating by unlicensed persons or companies; and

(j) Negotiate and enter into reciprocal agreements with appropriate officials in other states to permit licensed private fire and explosion investigators and investigating companies who meet or exceed the qualifications established in Sections 1 to 16 of this Act to operate across state lines under mutually acceptable terms.

SECTION 5. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) All fees and other moneys received by the department on behalf of the board pursuant to the provisions of Sections 1 to 16 of this Act shall be deposited in a separate agency fund from which the expenses of administering this chapter and other departmental expenses related thereto may be paid.

(2) No part of this fund shall revert to the general fund of the Commonwealth.

(3) The fund may be used to pay for:

(a) The compensation and reimbursement of board members for actual and necessary expenses incurred in the performance of official duties;

(b) The compensation of all of the employees of the board;

(c) Those operational and capital expenses incurred in fulfilling the board's duties as described in Sections 1 to 16 of this Act and in administrative regulations promulgated thereunder; and

(d) The development or sponsorship of continuing education courses annually, to be conducted at the Kentucky State Fire Marshal's Office in Frankfort, Kentucky.

SECTION 6. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) An application for a private fire and explosion investigator license shall be filed with the board on the prescribed form.

(a) The application shall include the following information regarding the applicant:

1. Full name and address;

2. Date and place of birth;

3. All residences during the past five (5) years;

4. All employment or occupations engaged in during the past five (5) years;

5. Three (3) sets of classifiable fingerprints;

6. Three (3) credit references from lending institutions or business firms with whom the subject has established a credit record; and

7. Any other information as the board may deem reasonably required by administrative regulation.

(b) The application shall be subscribed and sworn to by the applicant.

(2) An application for a private fire and explosion investigating company license shall be filed with the board on the prescribed form.

(a) The application shall include:

1. The information required in subsection (1)(a) of this section for:

a. The owner, if the company is a sole proprietorship;

b. Each partner, if the company is a partnership; or

c. The qualifying agent, if the company is a corporation;

2. The name under which the company intends to do business;

3. The address of the principal place of business and any branch offices of the company within this state; and

4. Other information as the board may reasonably require by administrative regulation.

(b) If the company is a corporation, the following information is also required:

1. The correct legal name of the corporation;

2. The state and date of incorporation;

3. The date the corporation qualified to do business in this state;

4. The address of the corporate headquarters, if located outside of this state;

5. The names of two (2) principal corporate officers other than the qualifying agent, their business addresses, residence addresses, and the office held by each in the corporation; and

6. The identity and license number of all private investigators employed by or affiliated with the company.

(c) The application shall be subscribed and sworn to by:

1. The owner, if the applicant is a sole proprietorship;

2. Each partner, if the applicant is a partnership; or

3. The qualifying agent, if the applicant is a corporation.

(d) Each employee of the company who is acting in the capacity of a fire and explosion investigator shall be licensed as a private fire and explosion investigator under the provisions of Sections 1 to 16 of this Act.

(3) Each applicant for an individual license to practice private fire and explosion investigating, or each owner, partner, or qualifying agent for a company license shall:

(a) Be at least twenty-one (21) years of age;

(b) Be a citizen of the United States or a resident alien;

(c) Not have been convicted of a felony in this or any other state or territory or by the federal government;

(d) Not have been convicted of a misdemeanor involving moral turpitude;

(e) Not have been declared by any court of competent jurisdiction to be incompetent by reason of mental defect or disease unless a court of competent jurisdiction has since declared the applicant to be competent;

(f) Not have been voluntarily or involuntarily committed to a facility or outpatient program for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances within a three (3) year period immediately preceding the date on which the application is submitted;

(g) Not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding his or her application or if the applicant has been committed as an alcoholic pursuant to KRS Chapter 222, or similar laws of any other state, within the three (3) year period immediately preceding the date on which the application is submitted;

(h) Be of good moral character;

(i) Pass an examination designed to measure knowledge and competence in the investigations field; and

(j) Submit proof of insurance coverage in the amount of at least one million dollars ($1,000,000) that:

1. Provides general liability insurance or other equivalent guarantee; and

2. Insures for liability resulting from errors or omissions in the performance of the duties of a private fire and explosion investigator.

(4) The board shall maintain the confidentiality of information relating to the licensee, except that the board may provide this information to local, state, or federal law enforcement agencies.

SECTION 7. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) Upon receipt of a license application, accompanied by a nonrefundable, nonproratable fee of not less than one hundred dollars ($100) and not more than five hundred dollars ($500), as established by the board by promulgation of administrative regulations, the department shall:

(a) Conduct an investigation to determine whether the statements made in the application are true; and

(b) Submit the application, including fingerprints, to the Kentucky State Police for a state criminal history background check. The Kentucky State Police may submit fingerprints of any applicant to the Federal Bureau of Investigation for a national criminal history background check. The board may by administrative regulation impose additional qualifications to meet the requirements of Pub. L. No. 92-544. The applicant for licensure shall bear the additional cost, in an amount not to exceed the actual cost, incurred for the criminal background check.

(2) Following the investigation process, the board shall either deny or approve the application.

(a) If the application for a license is denied, the board:

1. Shall notify the applicant in writing and set forth the grounds for denial. If the grounds are subject to correction by the applicant, the notice of denial shall so state and specify a reasonable period of time within which the applicant must make the correction; and

2. Shall grant a hearing to the denied applicant in accordance with the provisions of KRS Chapter 13B.

(b) If the application for a license is approved, the board shall issue:

1. A license to be posted conspicuously in the licensee's principal place of business; and

2. A wallet-sized laminated identification card to each individual licensee to be carried while engaged in private investigation. Information on the card shall include the expiration date of the license and the licensee's:

a. Name;

b. Photograph;

c. Physical characteristics; and

d. License number.

SECTION 8. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) A license or renewal issued under Sections 1 to 16 of this Act shall be valid for two (2) years from the date of issuance. No later than May 1 in the license renewal year, the board shall send a renewal application form to the address on file for each licensee. The renewal application shall indicate if the licensee is required to submit passport-sized photographs for a new identification card.

(2) All renewal applications shall be received by the board on or before June 30 in the year of renewal.

(3) Each company license renewal shall include a notarized statement sworn to by the representative prescribed in subsection (2)(c) of Section 6 of this Act stating the identity and license number of each private investigator employed by or affiliated with the company.

(4) The fee for the timely renewal of a license shall be not less than fifty dollars ($50) and not more than two hundred fifty dollars ($250), as established by the board by promulgation of administrative regulations.

(5) For individual licensees, the board shall, at its discretion, issue either a new identification card or a renewal stamp or sticker to be affixed to the existing card.

(6) A grace period shall be allowed until September 1 of the license renewal year, during which time licensees may continue to practice and may renew their licenses upon payment of the renewal fee plus a late fee as promulgated by administrative regulation of the board.

(7) All licenses not renewed by September 1 of the renewal year shall terminate based on the failure to renew in a timely manner. Upon termination, the licensee is no longer eligible to practice in this state.

(8) After September 1 of the renewal year, former licensees with a terminated license may have their licenses reinstated upon payment of the renewal fee plus a reinstatement fee as promulgated by administrative regulation of the board. If the reinstatement application is made within five (5) years from the date of termination, applicants shall not be required to submit to any examination as a condition for reinstatement.

(9) A revoked license may not be renewed. If it is reinstated, the licensee shall pay the reinstatement fee as set forth in subsection (8) of this section and the renewal fee as set forth in subsection (4) of this section.

(10) A former licensee who fails to reinstate a license within five (5) years after termination may not have it renewed, restored, or reinstated. A person may apply for and obtain a new license by meeting the current requirements for licensure.

(11) The board may require that a person applying for a renewal or reinstatement of licensure show evidence of completion of continuing professional education as prescribed by the board in administrative regulations.

(12) A valid license may be put on inactive status by the licensee at the time of renewal, at a cost to be determined by the board.

SECTION 9. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) If the ownership of a private fire and explosion investigating company changes, the new owner, if not already an individual licensee, shall not operate that company more than thirty (30) days after the date of the ownership change unless, within the thirty (30) day period, the new owner submits an application for a fire and explosion license investigation company.

(a) If the application is submitted, the new owner may continue to operate the company until the application has been finally determined by the board.

(b) The board may extend for a reasonable time the period for submitting an application under this subsection.

(2) If the qualifying agent of a company ceases to perform the duties of an agent on a regular basis, the licensee shall notify the board by certified or registered mail within thirty (30) days and substitute a new qualifying agent within ninety (90) days. The board may extend for a reasonable time the period for obtaining a substitute qualifying agent.

SECTION 10. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

No licensee shall:

(1) Knowingly make a material misrepresentation as to his or her ability to perform the fire and explosion investigation required by a potential client in order to obtain employment;

(2) Continue a fire and explosion investigation for a client when it becomes obvious to the licensee that a successful completion of an investigation is unlikely, unless the licensee advises the client and obtains the client's approval for continuation of the investigation; or

(3) Reveal information obtained for a client during a fire and explosion investigation to another individual, except as required by law.

SECTION 11. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) The department may investigate allegations of licensee wrongdoing upon complaint or upon its own volition. The department shall promulgate administrative regulations regarding the receiving and investigating of complaints.

(2) If the department's investigation reveals evidence supporting the complaint, the board shall set the matter for hearing pursuant to the provisions of KRS Chapter 13B before suspending, revoking, imposing probationary or supervisory conditions or an administrative fine, issuing a written reprimand, or any other combination of actions regarding any license under the provisions of Sections 1 to 16 of this Act.

(3) If, after an investigation that includes an opportunity for the licensee to respond, the board determines that a violation took place but was not of a serious nature, it may issue a written admonishment to the licensee. A copy of the admonishment shall be placed in the board's permanent licensure file. The licensee shall have the right to file a response to the admonishment within thirty (30) days of its receipt and to have that response placed in the board's permanent licensure file. The licensee may, within thirty (30) days of receipt, file a request for hearing with the board. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing under the provisions of KRS Chapter 13B.

SECTION 12. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) The board may refuse to issue a license, or suspend, revoke, impose probationary conditions upon, impose an administrative fine, issue a written reprimand, or any combination thereof regarding any licensee upon proof that the licensee or applicant has:

(a) Violated any provision of Sections 1 to 16 of this Act or any administrative regulation promulgated by the board;

(b) Knowingly and willfully made a material misstatement in connection with an application for license or renewal;

(c) Been convicted of a felony;

(d) Practiced fraud, deceit, or misrepresentation;

(e) Committed any act that would have been cause for refusal to issue the private fire and explosion investigating license had it existed and been known to the board at the time of issuance;

(f) Been incompetent or negligent in the practice of private fire and explosion investigating; or

(g) Violated the code of ethics promulgated by administrative regulation by the board.

(2) In addition to or in lieu of any other lawful disciplinary action under this section, the board may assess a civil penalty not exceeding seven thousand five hundred dollars ($7,500).

(3) When the board issues a written reprimand to the licensee, a copy of the reprimand shall be placed in the permanent file of the licensee. The licensee shall have the right to submit a response within thirty (30) days of its receipt and to have that response filed in the permanent file.

(4) At any time during the investigative or hearing processes, the board may accept an assurance of voluntary compliance from the licensee if the assurance effectively deals with the complaint.

(5) The board may reconsider, modify, or reverse its probation, suspension, or other disciplinary action.

(6) Any party aggrieved by a disciplinary action of the board may bring an action in Franklin Circuit Court pursuant to the provisions of KRS Chapter 13B.

(7) A license shall be subject to expiration and renewal during any period in which the license is suspended.

SECTION 13. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 16 of this Act do not apply to:

(1) A public accountant, certified public accountant, or the agent of either, performing duties relating to public accountancy;

(2) A state or local peace officer or government employee performing official duties;

(3) A person engaged exclusively in the business of obtaining and furnishing information regarding the financial rating or standing and credit of persons;

(4) An attorney-at-law, or an attorney's agent, performing duties relating to the practice of law;

(5) An insurance company, licensed insurance agent, or staff or independent adjuster if authorized to do business in Kentucky performing investigative duties limited to matters strictly pertaining to an insurance transaction, other than investigations into the cause or origin of a fire or explosion; or

(6) A private business employee conducting investigations relating to the company entity by which he or she is employed.

SECTION 14. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) A licensee shall notify the board in writing within thirty (30) days of:

(a) Any material change in the information previously furnished or required to be furnished to the board;

(b) Any occurrence that could reasonably be expected to affect the licensee's right to a license under Sections 1 to

16 of this Act, including but not limited to any criminal charges placed against any licensee by any person; and

(c) Any judgment received by any person for damages against any licensee.

(2) An investigative company shall notify the board in writing within thirty (30) days of any criminal charges filed against a private fire and explosion investigator employed by or affiliated with the company.

SECTION 15. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) For purposes of enforcing the provisions of this chapter, the department and its officers, agents, and inspectors shall have the power and authority to enter upon the premises of a fire scene and require the production of a license of any person present who is holding himself or herself out as a private fire and explosion investigator, or obtain information regarding any person who is holding himself or herself out as a private fire and explosion investigator.

(2) Notwithstanding the existence or pursuit of any other civil or criminal remedy, the department and its officers, agents, and inspectors are authorized to institute or maintain actions to restrain or enjoin any violation of this chapter or the administrative regulations promulgated thereunder.

(3) City, county, and Commonwealth's attorneys shall, within their respective jurisdictions, represent the department, its officers, agents, and inspectors, in the enforcement of this chapter.

(4) Any person violating Section 2 of this Act shall be guilty of a Class A misdemeanor.

SECTION 16. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

Sections 1 to 16 of this Act may be cited as the Kentucky Private Fire and Explosion Investigators Licensing Act.

Section 17. Any private fire or explosion investigating firm or investigator, or any fire or explosion investigator employed by a state, local, or federal entity, that is in business or employed in the Commonwealth of Kentucky for at least ten (10) years prior to the effective date of this Act shall receive a license automatically upon filing the appropriate application and paying the appropriate fee by April 1, 2003.

HB 676, AN ACT relating to human remains and burial objects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6, 7, and 8 of this Act, unless the context requires otherwise:

(1) "Archaeological site" means any place where artifacts that are valuable for the scientific study of historic or prehistoric human life and activities may be found, including but not limited to historic and prehistoric structures, ruins, pictographs and petroglyphs, mounds, burial grounds, forts, mines, farmsteads, quarries, house sites, and industrial or commercial sites;

(2) "Archaeological survey" means a systematic examination of the ground performed under the technical supervision of an archaeologist for the purpose of identifying, recording, and reporting archaeological sites;

(3) "Archaeologist" means an individual who has a graduate degree in anthropology and at least one (1) year of full-time professional experience in archaeological research, at least four (4) months of supervised field and analytic experience in general North American archaeology, and a demonstrated ability to complete research;

(4) "Artifact" means any material more than one hundred (100) years old that is made, modified, or shaped by human workmanship;

(5) "Burial ground" means a tract of land in which human remains are buried, exclusive of clandestine or criminal activities, including land that is historically, actually, or incidentally associated to the burial of human remains;

(6) "Burial object" means any item intentionally placed in a burial ground at or near the time of burial;

(7) "Cemetery" means a place used or to be used for human burials, including but not limited to one (1) or a combination of more than one (1) of the following:

(a) A burial park for interment;

(b) A mausoleum for entombment;

(c) A columbarium for inurnment;

(d) A burial ground consisting of one (1) or more marked graves; and

(e) A burial mound or other burial facility.

"Cemetery" shall not mean an individual urn or other container used for human ashes that have been lawfully cremated, unless the urn or container has been interred. The fact that any tract of land has been set apart for burial purposes shall be evidence that such grounds were set aside for burial purposes. The fact that graves are not visible on any part of the grounds shall not be construed as evidence that such grounds were not set aside and used for burial purposes;

(8) "Commission" means the Kentucky Native American Heritage Commission as referenced by KRS 2.230;

(9) "Council" means the Kentucky Heritage Council of the State Historic Preservation Office;

(10) "Descendant" means a documented lineal or collateral blood relative of the deceased or a tribal government having archaeological, historical, or other residence in the Commonwealth;

(11) "Excavation" means digging by plowing by hand or with mechanical equipment for the purpose of recovering artifacts, human remains, or burial objects;

(12) "Historic" means peoples and cultures who are known through contemporaneous written documents in their own or other languages, and as applied to archaeological sites and artifacts, any site or artifact that is at least one hundred (100) years old;

(13) "Human remains" means bodies, portions of bodies, or skeletal or dental materials that are exclusively associated with an archaeological site or with a cemetery. "Human remains" does not mean any bodies, parts of bodies, or skeletal or dental materials that are within the purview of the Office of the State Medical Examiner or a licensed physician;

(14) "Plan" means an archaeological plan for the systematic recovery, analysis, and disposition by scientific methods of material evidence and information about past life and culture;

(15) "Prehistoric" means people and cultures who are unknown through contemporaneous written documents in any language;

(16) "Surface collecting" means walking fields, stream banks, or other locations to look for and collect artifacts that are lying on the surface of the ground, that are partially exposed on the surface of the ground, or that have been disturbed by agricultural plowing or natural processes of erosion; and

(17) "Tribal government" means any tribe, band, nation, or other organized group or community of Native Americans recognized by the United States government or the Commonwealth of Kentucky.

SECTION 2. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) No person shall conduct an excavation of an archaeological site on private property without permit issued by the council. A person desiring to conduct an excavation of an archaeological site on private property shall apply for a permit by filing a written plan with the council for its approval.

(2) The council shall issue a permit to excavate at the archaeological site if it determines that the plan will:

(a) Be done in a manner consistent with professional archaeological practice; and

(b) Be conducted under the supervision of a professional archaeologist.

(3) The council may place reasonable restrictions upon any activities undertaken under the permit. The restrictions shall be in writing and shall be presented to the person making application at the time the permit is issued.

(4) An application for a permit shall be approved or denied within thirty (30) days of the council's receipt of the application. The council shall provide a written explanation to any person whose application for a permit is denied.

(5) All activity conducted on the site shall conform to the permit and any restrictions placed thereon. Any modifications to the plan shall be submitted in writing for the council's approval, and a copy of the permit shall be maintained on the site during the course of the excavation.

(6) A person aggrieved by a decision of the council may appeal the decision to the Circuit Court of the county in which the archaeological site is located. The council shall be a necessary party to any appeal.

(7) Any person who violates subsection (1) of this section shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense. In addition to any other penalty imposed, all artifacts, tools, implements, or other items used in the disinterment and the vehicles used for transporting human remains or burial objects, shall be seized and, upon the defendant's conviction, forfeited to the Commonwealth to be sold at public auction. The proceeds from the sale of all forfeitures shall go to the council for the purpose of administering Sections 1 to 6 of this Act. Additionally, any person found guilty of violating subsection (1) of this section shall reimburse the landowner for the cost of restoring and repairing any damage done to the land or to the site.

(8) This section shall not apply to :

(a) The treatment of cemeteries, abandoned cemeteries, or archaeological sites as a result of surface coal mining conducted in accordance with a permit issued under KRS Chapter 350;

(b) Archaeological investigations and data recovery projects conducted under Section 1065 of the Federal National Historic Preservation Act of 1966, 16 U.S.C. sec. 470f and its implementing regulations, 36 C.F.R. Part 800, as amended; and

(c) Surface collecting and archaeological surveys.

SECTION 3. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) Human remains and burial objects are the property of identifiable descendants.

(2) (a) The owner of the land on which a cemetery is located shall maintain its integrity and shall permit reasonable ingress to and egress from the location of the burial to the descendants and family members of persons buried in the cemetery, subject to the following conditions:

1. Reasonable notice shall be given by the descendants and family members to the landowner and the occupant of the land, if different, of their intention to access the land where the deceased is buried;

2. The access shall be limited to the purposes of visiting the grave, maintaining the grave, and conducting genealogical research;

3. The access route shall be designated by the landowner or by an obvious access route that is visible from view of the property;

4. The time and manner of access shall be designated by the landowner and both shall be reasonable; and

5. Descendants and family members of the deceased person shall conduct themselves in a manner that does not damage the private lands, the cemetery, or grave sites, and they shall be liable to the owner of the private lands for any damage caused as a result of their access.

(b) A landowner who violates the provisions of subsection (a) of this section shall be guilty of a Class B misdemeanor.

(3) The right of ingress to and egress from the location of the burial of descendants' and family members' ancestors and relatives on privately owned lands in the Commonwealth as provided in subsection (2) of this section is not intended to alter the recognized common law right of a person to visit the grave site of a deceased relative nor shall it alter any easements, licenses, privileges, or other dedications that grant the right to visit the grave sites of deceased relatives and that are in existence on the effective date of this Act.

(4) Any person denied reasonable access under the provisions of subsection (2) of this section may bring an action in the Circuit Court of the county in which the cemetery or grave site is located to enjoin the owner of the private lands on which the cemetery or grave is located, or his or her agent, from denying the person reasonable ingress to and egress from the cemetery or grave site for the purposes set forth in subsection (2) of this section. In granting any relief, the court may set the frequency of access, hours, and duration of the access.

(5) Human remains found on the surface or unearthed in an unauthorized excavation of a cemetery or a known or unknown burial ground shall escheat to and become the responsibility of the state unless the remains are claimed by the descendants or family members of the person buried or the rights to the remains are waived by the descendants or family members of the person buried. Human remains that are the property of the state shall be reinterred in their total parts, except for autopsy samples, in suitable and designated burial sites under state control and maintenance within three (3) years of being found. If more than twenty-five (25) separate human bodies or parts thereof are located in a single site, the bodies shall be reinterred within five (5) years from the date of the exhumation. If the human remains are found to be of Native American origin, representatives of tribal governments as established in federal law shall conduct the reinterment upon the representatives' request and approval by the commission.

(6) This section shall not apply to :

(a) The treatment of cemeteries, abandoned cemeteries, or archaeological sites as a result of surface coal mining conducted in accordance with a permit issued under KRS Chapter 350; and

(b) Archaeological investigations and data recovery projects conducted under Section 1065 of the Federal National Historic Preservation Act of 1966, 16 U.S.C. sec. 470f, and its implementing regulations, 36 C.F.R. Part 800, as amended.

SECTION 4. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) A person who encounters or accidentally disturbs or disinters human remains without a permit issued by the Office of Vital Statistics or other legal authority granted in the Kentucky Revised Statues shall immediately cease disturbing the human remains.

(2) A person encountering or accidentally disturbing or disinterring human remains shall comply with the provisions of KRS 72.020 and 213.076.

(3) The coroner shall notify the council if he or she, the state medical examiner, and local law enforcement personnel have no forensic or criminal concerns about the human remains at the site.

(4) If the human remains reported to the council are associated with a cemetery that has been disturbed by accident, maintaining the cemetery's integrity shall be the responsibility of the landowner and shall be subject to the conditions set out in subsection (2) of Section 3 of this Act. The council shall advise the landowner of the steps to be taken to stabilize, repair, and document the disturbance to the cemetery. If relocation of the cemetery is necessary, the landowner shall comply with the relocation procedures specified in KRS 381.755.

(5) If human remains are found on the surface or unearthed in an unauthorized excavation of a cemetery or burial ground, the human remains shall, unless claimed by any lawful descendants or family members of the person buried or the rights in the human remains are waived by the descendants or family members of the person buried, become the property of the state and shall be treated in accordance with subsection (5) of Section 3 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) Any person or institution wishing to possess human remains or burial objects, other than human remains lawfully cremated, shall apply for and obtain a permit from the Office of Vital Statistics. The permit provided under this

subsection shall not be issued until after the Office of Vital Statistics has consulted with the state medical examiner and the council.

(2) The Office of Vital Statistics shall issue a permit to the applicant only if the office and the state medical examiner determine that the human remains or burial objects are to be possessed for teaching, medical, scientific, or educational purposes.

(3) The Office of Vital Statistics shall approve or deny the issuance of a permit within thirty (30) days of receiving the applicant's request. If the applicant is denied a permit, the office shall provide the applicant with a written explanation for the denial.

(4) Any person who is aggrieved by the Office of Vital Statistic's denial of a permit may appeal to the Circuit Court of the county in which the human remains or burial objects are located. The office shall be a necessary party to any appeal.

(5) A permit issued under this section shall name the person or institution authorized to possess the human remains or burial objects and the manner by which the human remains or burial objects shall be disposed of following their use.

(6) The possession, utilization, or disposition of human remains or burial objects without a permit or other lawful authority or in a manner contrary to a permit issued under this section shall be a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense. All human remains or burial objects possessed or used in violation of this section shall be seized and shall, unless claimed by the lawful descendants or family members of the person buried or the rights to the remains or objects have been waived by the descendants, become the property of the state and shall be treated in accordance with subsection (5) of Section 3 of this Act. In addition to any other penalty imposed, the tools, implements, or other items used in the disinterment and the vehicles used for transporting human remains or burial objects shall be seized and, upon the defendant's conviction, forfeited to the Commonwealth to be sold at public auction. The proceeds from the sale of items forfeited shall go to the council for the purpose of administering Sections 1 to 6 of this Act. Additionally, any person found guilty of violating this section shall reimburse the Commonwealth for the cost of properly disposing of the human remains and burial objects.

SECTION 6. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) No exhumation of human remains or burial objects may be conducted except with a permit issued by the Office of Vital Statistics.

(2) Exhumation of human remains or burial objects without a permit is a Class D felony. Upon arrest under this subsection, all human remains and burial objects shall be treated in accordance with subsection (5) of Section 3 of this Act. In addition to any other penalty imposed, the tools, implements, or other items used in the disinterment and the vehicles used for transporting human remains or burial objects shall be seized and, upon the defendant's conviction, forfeited to the Commonwealth to be sold at public auction. The proceeds from the sale of all forfeitures shall go to the council for the purpose of administering Sections 1 to 6 of this Act. Additionally, any person found guilty of violating this section shall reimburse the Commonwealth for the cost of properly disposing of the human remains and the landowner for the cost of restoring any damage done to the land.

Section 7. KRS 525.105 is amended to read as follows:

(1) A person is guilty of desecration of venerated objects in the first degree when, other than authorized by law, *the person*~~[he]~~ intentionally *facilitates or disturbs*~~[excavates]~~ or disinters human remains *or burial objects*~~[for the purpose of commercial sale or exploitation of the remains themselves or of objects buried contemporaneously with the remains]~~.

(2) Desecration of venerated objects in the first degree is a Class D felony. *Upon arrest for the desecration of venerated objects, all human remains and burial objects shall be seized and, upon the defendant's conviction, shall become the property of the Commonwealth, unless the human remains and burial objects are claimed by the lawful descendants or family members of the person buried or the rights in the human remains are waived by the descendants or family members of the person buried. Human remains and burial objects that are the property of the state shall be treated in accordance with subsection (5) of Section 3 of this Act. In addition to any other penalty imposed, the tools, implements, or other items used in the disturbance or disinterment and the vehicles used for transporting human remains or burial object shall be seized and, upon the defendant's conviction, forfeited to the Commonwealth to be sold at public auction. The proceeds from the sale of all forfeitures shall go to the council for the purpose of administering Sections 1 to 6 of this Act. Additionally, any person found guilty of violating this section shall reimburse the Commonwealth for the cost of properly disposing of the human remains and the landowner for the cost of restoring any damage done to the land.*

Section 8. KRS 525.120 is amended to read as follows:

(1) A person is guilty of abuse of a corpse when, except as authorized by law, he intentionally treats a corpse in a way that would outrage ordinary family sensibilities *or exhibits, alters, or discards human remains. A corpse or human remains treated in a manner in violation of this subsection shall be seized and shall become the responsibility of the Commonwealth if the lawful descendants of the corpse are not found or if the lawful descendants waive their rights to the corpse. A person found guilty of abusing a corpse shall be ordered to reimburse the Commonwealth for the cost of properly disposing of the corpse or human remains*.

(2) Abuse of a corpse is a Class~~[A misdemeanor, unless the act attempted or committed involved sexual intercourse or deviate sexual intercourse with the corpse, in which case it is a Class]~~ D felony.

The Committee on Judiciary reported **HB 145,** with Committee Substitute attached thereto, **HB 228,** with Committee Substitute attached thereto, **HB 541,** with Committee Substitute attached thereto, **HB 571,** with Committee Substitute attached thereto, and **HB 610,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 145, AN ACT relating to juvenile justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15A.067 is amended to read as follows:

(1) As used in this section, "facility" means any of the facilities specified in KRS 15A.200 operated by a political subdivision of the Commonwealth of Kentucky ***and juvenile detention facilities operated by the Commonwealth of Kentucky*** for the care of juveniles alleged to be delinquent or adjudicated delinquent.

(2) (a) There is established within the Department of Juvenile Justice a Division of Program Services that shall be responsible for ensuring the delivery of appropriate educational programs to incarcerated youth. Each facility shall provide educational services to youth[~~ who may be~~] ordered by the court to remain in the juvenile detention facility[~~ for an indeterminate period~~].

(b) Any other statutes to the contrary notwithstanding, the Department of Juvenile Justice shall have access to all educational records, public or private, of any juvenile in a facility or program or informal adjustment authorized by law.

(c) The Division of Program Services shall ensure that all incarcerated youth be provided appropriate screening and educational programs as follows:

1. For students identified before incarceration as having an educational disability, the Division of Program Services shall make specially designed instruction and related services available as required by Kentucky Board of Education administrative regulations applicable to students with disabilities.

2. For students incarcerated for more than fourteen (14) days, the division shall ensure that appropriate screening is provided to all youth. Screening shall include, but not be limited to, seeking the juvenile's educational record.

3. For students incarcerated for more than thirty (30) days, the division shall ensure that all youth are provided an appropriate education.

(d) The Department of Juvenile Justice shall be responsible for providing, in its contracts with private juvenile detention facilities and county jails, the specific obligations of those entities to provide educational services to incarcerated juveniles consistent with this section, including funding provisions.

(e) The Department of Education and all local school district administrators shall cooperate with officials responsible for the operation of juvenile detention facilities and with the Division of Program Services to ensure that all documents necessary to establish educational status and need shall follow the students who are being held in these facilities so the students can be afforded educational opportunities.

(f) 1. Upon disposition by the juvenile court that an adjudicated juvenile shall stay in a juvenile detention facility for any period of time, the facility shall notify the juvenile's last resident school district of the student's whereabouts.

2. Within five (5) days after the juvenile is released, the Division of Program Services shall notify the district in which the student will reside of the youth's release and educational status and forward any educational records.

(g) The Department of Juvenile Justice shall, after consultation with the Department of Education, promulgate an administrative regulation for the effective implementation of this section.

(3) There is established within the Department of Juvenile Justice a Division of Placement Services that shall be responsible for the management, policy direction, and coordination of all matters relating to the classification, evaluation, and placement of juveniles committed to or detained by the department. The division shall also be responsible for the transportation of juveniles committed to or detained by the department.

Section 2. KRS 15A.200 is amended to read as follows:

As used in KRS 15A.210 to 15A.240 and KRS 15A.990:

(1) "Certified juvenile facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Department of Juvenile Justice[~~ after consultation with other appropriate state agencies~~];

(2) "Intermittent holding facility" means a physically secure setting, approved by the Department of Juvenile Justice, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners in which a child accused of a public offense may be detained for a period not to exceed ***twenty-four (24)***[~~seventy-two (72)~~] hours, exclusive of weekends and holidays, prior to a detention hearing as provided in KRS 610.265, and in which children are supervised and observed on a regular basis by certified juvenile facility staff. Employees of jails who meet the qualifications of the

Department of Juvenile Justice may supervise juvenile as well as adult prisoners;

(3) "Juvenile holding facility" means a physically secure setting, approved by the Department of Juvenile Justice, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas, and which is staffed exclusively by sufficient certified juvenile facility staff to provide twenty-four (24) hours-per-day, supervision. Employees of jails who meet the qualifications of the Department of Juvenile Justice may supervise juvenile as well as adult prisoners;

(4) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lockup, intermittent holding facility, or any building which is a part of or attached to any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;[~~ and~~]

(5) "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the nonsecure detention of juveniles***; and***

(6) The term "facility" or "facilities" as used in KRS 15A.210 to 15A.240 shall mean the facilities defined in this section.

Section 3. KRS 15A.210 is amended to read as follows:

(1) The Department of Juvenile Justice shall ***promulgate***[~~, after consultation with the Detention Facility Standards Committee, issue~~] and enforce administrative regulations to govern at least the following aspects of the operation of[~~ secure juvenile detention facilities and juvenile holding~~] facilities:

(a)[~~(1)~~] Administration;

(b)[~~(2)~~] Personnel;

(c)[~~(3)~~] Training and staff development;

(d)[~~(4)~~] Recordkeeping;

(e)[~~(5)~~] Physical plant;

(f)[~~(6)~~] Security and control;

(g)[~~(7)~~] Safety and emergency procedures;

(h)[~~(8)~~] Sanitation and hygiene;

(i)[~~(9)~~] Medical and health services;

(j)[~~(10)~~] Food services;

(k)[~~(11)~~] Intake and classification;

(l)[~~(12)~~] Programs and services;

(m)[~~(13)~~] Residents' rights;

(n)[~~(14)~~] Rules and discipline;

(o)[~~(15)~~] Admission procedures;

(p)[~~(16)~~] Communication, including mail, visitation, and telephone;

(q)[~~(17)~~] Release preparation and transfer programs;[~~ and~~]

(r)[~~(18)~~] Volunteer involvement***;***

(s) Transfers;

(t) Reimbursement rates and conditions; and

(u) Detention facility rate increases.

(2) Administrative regulations promulgated under this section shall specifically identify new requirements of the law which increase the cost of operating a juvenile facility not operated by the Department of Juvenile Justice. The administrative regulations shall identify the amount and source of funding for compliance with the new requirements.

Section 4. KRS 15A.220 is amended to read as follows:

(1) [~~On or before July 1, 1998,~~]Each person or organization operating a[~~ secure juvenile detention~~] facility shall register with the ***Department of Juvenile*** Justice[~~ Cabinet~~] and shall comply with the regulations issued pursuant to KRS 15A.210.

(2) [~~After July 1, 1998,~~]Each organization operating or seeking to operate ***or expand*** a[~~ secure juvenile detention facility or juvenile holding~~] facility shall:

(a) Apply to the Department of Juvenile Justice in a period of time set by ***administrative*** regulation prior to the scheduled opening of the[~~ secure juvenile detention facility or juvenile holding~~] facility;

(b) Permit inspection of the[~~ secure juvenile detention facility or juvenile holding~~] facility by the Department of Juvenile Justice not less than thirty (30) days prior to the scheduled opening of the facility; and

(c) Supply to the Department of Juvenile Justice not less than thirty (30) days prior to the scheduled opening of the[~~ secure juvenile detention~~] facility all data, plans, and other materials required by the ***Department of Juvenile*** Justice[~~ Cabinet~~].

(3) No[~~ secure juvenile detention facility or juvenile holding~~] facility shall operate[~~ after July 1, 1998,~~] except with the approval of the Department of Juvenile Justice.

(4) The Department of Juvenile Justice shall have the authority, upon thirty (30) days written notice to the county judge/executive and jailer of any county that operates a juvenile detention facility and is located within an area served by a state-operated juvenile detention facility, to decertify any juvenile detention facility and that facility shall, at the expiration of the thirty (30) day period, cease detaining juveniles.

Section 5. KRS 15A.230 is amended to read as follows:

(1) [~~After July 1, 1998,~~]The Department of Juvenile Justice shall inspect, at least annually, each registered[~~ secure juvenile detention~~] facility to assure its compliance with administrative regulations.

(2) [~~After July 1, 1998,~~]The Department of Juvenile Justice may require reports and other data at least annually from each[~~ secure juvenile detention facility and juvenile holding~~] facility.

Section 6. KRS 15A.300 is amended to read as follows:

(1) The Department of Juvenile Justice or a local organization approved by the Department of Juvenile Justice may form local juvenile delinquency prevention councils for the purpose of encouraging the initiation of, or supporting ongoing, interagency cooperation and collaboration in addressing juvenile crime and juvenile status offenses.

(2) The membership of the local council shall be determined by the Department of Juvenile Justice and shall include representatives of law enforcement, the school system, the Department for Community Based Services, the Court of Justice, the Commonwealth's attorney, the county attorney, a representative of a county juvenile detention facility, and the Department for Public Advocacy. The members of the council shall be appointed as provided by the department by administrative regulation and shall be appointed for not longer than four (4) years, but members may be reappointed for a successive term. A member of the council shall receive no salary for service as a member of the council but may be reimbursed for expenses in the same manner as a state employee.

(3) The duties and responsibilities of a juvenile delinquency prevention council shall include but not be limited to:

  (a) Developing a local juvenile justice plan based upon utilization of the resources of law enforcement, the school system, the Department of Juvenile Justice, the Department for Community Based Services, the Administrative Office of the Courts, and others in a cooperative and collaborative manner to prevent or discourage juvenile delinquency and to develop meaningful alternatives to incarceration;

  (b) Entering into a written local interagency agreement specifying the nature and extent of contributions that each signatory agency will make in achieving the goals of the local juvenile justice plan;

  (c) Sharing of information as authorized by law to carry out the interagency agreements;

  (d) Applying for and receiving public or private grants to be administered by one (1) of the participating cities or counties or other public agencies; and

  (e) Providing a forum for the presentation of interagency recommendations and the resolution of disagreements relating to the contents of the interagency agreement or the performance by the parties of their respective obligations under the agreement.

(4) Training of council members shall be the responsibility of the department.

(5) The Department of Juvenile Justice may provide grants to the councils to establish or enhance prevention programs.

(6) *To assist in the development of a local juvenile delinquency prevention plan, juvenile delinquency prevention councils shall be entitled to request and receive statistical information and aggregate data not descriptive of any readily identifiable person from any public agency, as defined in KRS 61.870.*

  (a) A request for statistical information and aggregate data from the juvenile delinquency prevention council shall be in writing and signed by the chairperson of the council, and shall include a statement of why the information is being requested, why it is needed, and how it will be used by the council.

  (b) Any public agency receiving a written request from the chairperson of a juvenile delinquency prevention council for aggregate data or statistical information shall provide the requested information or respond to the council stating reasons why the requested information cannot be provided, within thirty (30) days of receiving the request.

(7) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A that relate to:

  (a) The formation of councils;

  (b) The operation of councils;

  (c) The duties of councils; and

  (d) The administration and operation of the grant program.

Section 7. KRS 15A.305 is amended to read as follows:

(1) The Department of Juvenile Justice shall, with available funds, develop and administer a statewide detention program and, as each regional facility is constructed and ready for occupancy, shall, within appropriation limitations, provide for:

(a) The operation of preadjudication detention facilities for children charged with public offenses; and

(b) The operation of postadjudication detention facilities for children adjudicated delinquent or found guilty of public offenses.

[~~Funds appropriated for the purposes of this section shall only be used for facilities defined in KRS 15A.200.~~]

(2) In each region in which the Department of Juvenile Justice operates or contracts for the operation of a detention facility, the department shall, within appropriation limitations, develop and administer a program for alternatives to ***secure*** detention that shall provide for:

(a) The operation of or contracting for the operation of preadjudication alternatives to ***secure*** detention and follow-up programs for ***juveniles***[~~children~~] who are before the court and who enter pretrial diversion or informal adjustment programs; and

(b) The operation of or contracting for the operation of postadjudication alternatives to ***secure*** detention and follow-up programs, including but not limited to community-based programs, mentoring, counseling, and other programs designed to limit the unnecessary use of secure detention and ensure public safety.

(3) The department ***may***[~~shall~~], except as provided in KRS 635.060, charge counties and urban-county governments a per diem not to exceed ninety-four dollars ($94) for lodging juveniles in state-owned or contracted[~~ preadjudication~~] facilities.

(4) Detention rates charged by contracting detention facilities shall not exceed the rate in effect on July 1, 1997, subject to increases approved by the department.

(5)[~~The Department of Juvenile Justice shall issue and enforce administrative regulations to govern the following:~~

~~(a) Administration;~~

~~(b) Intake and classification;~~

~~(c) Programs and services;~~

~~(d) Recordkeeping;~~

~~(e) Rules and discipline;~~

~~(f) Transfers;~~

~~(g) Reimbursement rates and conditions; and~~

~~(h) Detention facility rate increases.~~

~~(6)~~] No juvenile detention facility***, as defined in KRS 15A.200,***[~~ or juvenile holding facility~~] shall be taken over, purchased, or leased by the Commonwealth without prior approval of the fiscal court upon consultation with the jailer in the county where the facility is located. The county, upon consultation with the jailer, may enter into contracts with the Commonwealth for the holding, detention, and transportation of juveniles.

[~~(7) Administrative regulations promulgated under subsection (5) of this section shall specifically identify new requirements of the law which increase the cost of operating a juvenile facility not operated by the Department for Juvenile Justice. The administrative regulations shall identify the amount and source of funding for compliance with the new requirements.~~]

Section 8. KRS 605.080 is amended to read as follows:

(1) Any child ordered to be transported, by a committing or sentencing court, shall be transported by the sheriff or the jailer of that county. Any other law enforcement agency may enter into agreements with the court, sheriff, or jailer to transport juveniles.

(2) Any peace officer who conveys a child from the committing court or from the detention facility of the committing court to a residential treatment facility or other facility operated by the Department of Juvenile Justice or the cabinet shall be allowed an amount prescribed by regulation adopted by the Finance and Administration Cabinet calculated by the nearest traveled route, and shall be paid for all necessary expenses for feeding, lodging, and transporting the child. The officer shall make out a full account of all expenses so incurred by him and give the distance traveled. The account shall be verified by the officer upon oath before the District Court and certified by the circuit clerk to the Department of Juvenile Justice or the cabinet, as appropriate, for payment out of funds appropriated to the Department of Juvenile Justice or the cabinet for this purpose. The child's presence shall be necessary at a postdispositional proceeding only as required by court order for good cause. Transportation shall be provided as in subsection (1) of this section and expenses for transportation of a child to a proceeding from a residential treatment facility or other facility operated by the Department of Juvenile Justice or the cabinet shall be paid out of the State Treasury.

(3) No child shall be transported to any residential treatment facility or other facility, pursuant to order of any court[~~ or direction of the cabinet~~], unless accompanied by an attendant of the same gender, ***unless that child,***[~~ or,~~] when authorized in writing by the court, the Department of Juvenile Justice, or the cabinet, ***is transported*** by a parent, grandparent, or adult brother or sister.

(4) The agent of any residential treatment facility or other facility which receives a child transported to the facility shall report any violation of subsection ***(3)***[~~(2)~~] of this section to the Commonwealth's attorney of the judicial circuit in which the facility is located.

(5) The Department of Juvenile Justice or the cabinet may ***transport or*** pay the necessary traveling expenses of children committed to it for care and treatment from their homes to the residential treatment facility or other facility or home to which they are committed, and the traveling expenses of such children from the facility or home to their homes when discharged or placed on supervised placement.

Section 9. KRS 605.095 is amended to read as follows:

(1) The Department of Juvenile Justice shall operate or contract for the operation of any postadjudication juvenile detention or treatment facility in which a juvenile is confined for a public offense or as a youthful offender.

(2) Not less than one (1) facility specified in subsection (1) of this section shall be a secure facility with a security level comparable to a medium-security adult facility.

(3) The Department of Juvenile Justice shall operate or contract for the operation of any postadjudication juvenile treatment, rehabilitation, probation, or parole programs, diversion or alternatives to ***secure*** detention programs, or other programs for juvenile offenders to which a juvenile ***committed as a public offender or sentenced as a youthful offender*** has been assigned.

(4) A juvenile detained in a department-operated postadjudication detention or treatment facility may be transferred to a Department of Corrections facility at any time as provided by KRS 640.070 or other specific statute.

Section 10. KRS 605.110 is amended to read as follows:

(1) Unless provided otherwise, when any child committed to ***or in the custody of*** the Department of Juvenile Justice or the cabinet requires medical or surgical care or treatment, the Department of Juvenile Justice or the cabinet may provide the same or arrange for the furnishing thereof by other public or private agencies, and may give consent to the medical or surgical treatment. For this purpose, the services and facilities of local health officers and departments shall be made available, at a cost not to exceed the Medicaid reimbursement rate, to the Department of Juvenile Justice or the cabinet, and as far as practicable, any publicly-owned hospital shall provide hospitalization without charge for any such child who is a resident of the political subdivision by which the hospital is owned or operated. This section does not authorize nor shall permission be granted for abortion or sterilization.

(2) Any child placed in a foster home by an agency duly authorized in KRS Chapter 620 to place a child in a foster home shall receive a complete medical, visual, and dental examination by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. Arrangements for a child placed in a foster home to receive such examinations shall be made within two (2) weeks of his placement in a foster home and not less than every twelve (12) months thereafter.

(3) Children maintained in any of the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet shall, so far as possible, receive a common school education.

(a) The Kentucky Educational Collaborative for State Agency Children shall be established to serve children in facilities and programs operated or contracted by the Department of Juvenile Justice or the Cabinet for Families and Children, residential, day treatment, clinical, and group home programs. All policies and procedures necessary to educate state agency children shall be approved by the Kentucky Board of Education. All duties, responsibilities, rights, and privileges specifically imposed on or granted to the local education administration units shall be imposed on or granted to the Department of Juvenile Justice or the Cabinet for Families and Children and contracted agencies with regard to educating agency children. Classrooms for the Kentucky Educational Collaborative for State Agency Children shall be within or near the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet. The Kentucky Department of Education, the Department of Juvenile Justice, and the Cabinet for Families and Children, Department for Community Based Services, shall develop a biennial plan regarding the educational needs and provisions of educational programs, with emphasis on the coordination of all treatment services and funds available to provide for the education of state agency children. The biennial plan shall include strategies to assure that teacher preparation programs include content related to working with state agency children and that adequate professional development opportunities for better meeting the needs of these students are available for teachers and schools.

(b) Teachers and other staff shall be hired on contract through a local school district or if a local school district is not willing to participate, teachers may be hired by the Kentucky Educational Collaborative for State Agency Children or a contract may be entered into with a private provider of educational services. All certified educational staff hired by the Kentucky Educational Collaborative for State Agency Children shall be members of the Kentucky Teachers' Retirement System.

(c) Beginning July 1, 1993, the Kentucky Education Collaborative for State Agency Children shall be financed through:

1. The amount generated by state agency children under the Support Education Excellence in Kentucky program as provided in KRS 157.360 for the guaranteed base and adjustments for the number of at-risk students, exceptional students, and transportation costs;

2. A per-pupil distribution of professional development funds with the collaborative serving as a consortium for state agency children;

3. A per-pupil distribution of technology funds in accordance with the state education technology plan

pursuant to KRS 156.670 and the formula for the distribution of funds to local school districts;

4. A per-pupil distribution of textbook funds pursuant to KRS 157.100 and 157.190;

5. The funding for school services for state agency children authorized by KRS 158.135; and

6. Other grants and entitlements, including federal funds, identified in the implementation plan developed pursuant to paragraph (f) of this subsection for the education of Kentucky's children.

(d) The commissioner of Juvenile Justice and the secretary of the Cabinet for Families and Children shall promulgate administrative regulations, pursuant to KRS Chapter 13A, with the assistance of the Kentucky Department of Education and upon recommendation of the Kentucky Board of Education regarding the governance, curriculum, and other topics necessary to educate state agency children. The regulations shall:

1. Provide for the development and implementation of interagency agreements that:
   a. Define the financial responsibility of each state and local agency for providing services to state agency children;
   b. Establish procedures for resolving interagency disputes among agencies that are parties to the agreements; and
2. Provide procedures for the implementation of the Kentucky statutes regarding school-based decision making, student outcomes, accountability, assessment, rewards and sanctions, technology, staff development, salaries, and the development of coordinated individual treatment, education, and transition plans to ensure compliance with present education and treatment laws and regulations specific to the needs of children in the programs of the Cabinet for Families and Children.

(e) When the placement of a state agency child is changed so that the state agency child must transfer from one school or educational facility to a different school or educational facility, the school or educational facility that the state agency child is leaving shall, within two (2) days of the state agency child leaving, prepare an educational passport for the child, which shall be delivered to the cabinet or the Department of Juvenile Justice. The cabinet or the Department of Juvenile Justice shall, within two (2) days of enrolling a state agency child in a new school or educational facility, present the educational passport to the receiving school or educational facility.

(f) The commissioner of Juvenile Justice and the secretary of the Cabinet for Families and Children and the commissioner of the state Department of Education shall initiate development of a plan for implementation of the Kentucky Educational Collaborative for State Agency Children.

Section 11. KRS 605.130 is amended to read as follows:

In addition to the other duties, functions, and responsibilities imposed by law, the cabinet, through its authorized representatives, shall have general supervision and management of all matters contained in KRS~~[605.090,]~~ 620.150~~[,]~~ and 620.170 and shall, wherever possible:

(1) Locate and plan for all children who are dependent, neglected, or abused;

(2) Cooperate with and assist the courts of the various counties;

(3) Assist Circuit Courts through services to children whenever requested by the court. The cabinet may charge a reasonable fee for such services to be taxed as costs by the court; and

(4) Perform such other services as may be deemed necessary for the protection of children.

Section 12. KRS 610.010 is amended to read as follows:

(1) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his ***or her*** eighteenth birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years, who allegedly:

(a) Has committed a public offense prior to his ***or her*** eighteenth birthday, except a motor vehicle offense involving a child sixteen (16) years of age or older. A child sixteen (16) years of age or older taken into custody upon the allegation that ***the child***~~[he]~~ has committed a motor vehicle offense shall be treated as an adult and shall have the same conditions of release applied to him ***or her*** as an adult. A child taken into custody upon the allegation that he ***or she*** has committed a motor vehicle offense who is not released under conditions of release applicable to adults shall be held, pending his ***or her*** appearance before the District Court, in a~~[secure juvenile detention facility or a juvenile holding]~~ facility ***as defined in Section 1 of this Act***~~[or, if neither is available, in an intermittent holding facility]~~. Children sixteen (16) years of age or older who are convicted of, or plead guilty to, a motor vehicle offense shall, if sentenced to a term of confinement, be placed in a~~[secure juvenile detention facility or a juvenile holding]~~ facility ***for that period of confinement preceding their eighteenth (18) birthday and an adult detention facility for that period of confinement subsequent to their eighteenth (18) birthday***. The term "motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent nor any offense which constitutes a felony;

(b) Is beyond the control of the school or beyond the control of parents as defined in KRS 600.020;

(c) Is an habitual truant from school;

(d) Is an habitual runaway from his ***or her*** parent or other person exercising custodial control or supervision of the child;

(e) Is dependent, neglected, or abused; or

(f) Is mentally ill.

(2) Actions brought under subsection (1)(a) of this section shall be considered to be public offense actions.

(3) Actions brought under subsection (1)(b), (c), and (d) of this section shall be considered to be status offense actions.

(4) Actions brought under subsection (1)(e) of this section shall be considered to be dependency actions.

(5) Actions brought under subsection (1)(f) of this section shall be considered to be mental health actions.

(6) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of Circuit Courts over adoptions and proceedings for termination of parental rights.

(7) The court shall have no jurisdiction to make permanent awards of custody of a child except as provided by KRS 620.027.

(8) If the court finds an emergency to exist affecting the welfare of a child, or if the child is eligible for kinship care as established in KRS 605.120, it may make temporary orders for ***the child's***[~~his~~] custody; however, if the case involves allegations of dependency, neglect, or abuse, no emergency removal or temporary custody orders shall be effective unless the provisions of KRS Chapter 620 are followed. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the Circuit Court awarding custody of such child, all prior orders of the juvenile session of the District Court in conflict therewith shall be deemed canceled. This section shall not work to deprive the Circuit Court of jurisdiction over cases filed in Circuit Court.

(9) The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state shall have concurrent jurisdiction over such child with the court of the county wherein the child resides or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of ***the***[~~his~~] case, or in its discretion may make an order transferring the case to the court of the county of ***the child's***[~~his~~] residence or the county wherein the offense was committed, as the case may be.

(10) Nothing in this chapter shall prevent the District Court from holding a child in contempt of court to enforce valid court orders previously issued by the court.

(11) Except as provided in KRS 635.060(3), nothing in this chapter shall confer upon the District Court jurisdiction over the actions of the Department of Juvenile Justice or the cabinet in the placement, care, or treatment of a child committed to the Department of Juvenile Justice or the cabinet; or to require the department or the cabinet to perform, or to refrain from performing, any specific act in the placement, care, or treatment of any child committed to the department or the cabinet.

(12) Unless precluded by KRS Chapter 635 or 640, in addition to informal adjustment, the court shall have the discretion to amend the petition to reflect jurisdiction pursuant to the proper chapter of the Kentucky Unified Juvenile Code.

(13) The court shall have continuing jurisdiction over a child pursuant to subsection (1) of this section, to review dispositional orders, and to conduct permanency hearings under 42 U.S.C. sec. 675(5)(c) until the child is placed for adoption, returned home to his ***or her*** parents with all the court imposed conditions terminated, or reaches the age of eighteen (18) years.

Section 13. KRS 610.120 is amended to read as follows:

(1) Except as otherwise provided by KRS Chapters 605 and 635, an order of commitment or an order of protective supervision or probation made by the court in the case of a child may be continued or terminated at any time prior to expiration on the court's own initiative or on motion by:

(a) A child who is affected by an order of juvenile session of District Court;

(b) The family, custodian, guardian, or legal representative of such a child;

(c) The Department of Juvenile Justice or the cabinet;

(d) The county attorney of the county in which the committing court presides; or

(e) Any other person having an interest in the welfare of the child.

(2) Grounds for such action may include but are not limited to allegations that there has been a substantial change of material circumstances, there exists new evidence affecting the disposition of the child, the child is no longer in need of commitment, probation, or placement, the child has not responded to or benefited from treatment or the child has not received adequate and proper treatment, the original proceedings were not conducted in the manner required by law or the public interest requires termination of the order. Upon review of the child's case, the Department of Juvenile Justice, the cabinet, any agency, facility, or individual responsible for the supervision, care, or treatment of the child shall divulge and communicate such information regarding the child as the court may require.

(3) Except as otherwise provided by KRS Chapter 640 relating to youthful offenders, and KRS 610.110, 620.140, 635.060,[~~ or~~] 635.090***, or 635.515*** relating to extending commitment beyond the age of eighteen (18), an order of commitment, temporary custody, or an order of protective supervision or probation made by the court in the case of a child shall be terminated when the child attains the age of eighteen (18). At least fourteen (14) days prior to the committed child's eighteenth birthday, the Department of Juvenile Justice or the cabinet shall prepare a summary of the information concerning the child and submit it with written notification to the committing court that a child's commitment is due to expire.

Section 14. KRS 610.280 is amended to read as follows:

(1) At the detention hearing held pursuant to KRS 610.265, the court shall make separate findings as follows:

(a) If there is probable cause to believe that an offense has been committed and that the accused child committed that offense. Probable cause may be established in the same manner as in a preliminary hearing in cases involving adults accused of felonies. The child shall be afforded the right to confront and cross-examine witnesses. The Commonwealth shall bear the burden of proof, and if it should fail to establish probable cause, the child shall be released and the complaint or petition dismissed unless the court determines further detention is necessary to assure the appearance of the child in court on another pending case;

(b) In determining whether a child should be further detained, the court shall consider the seriousness of the alleged offense, the possibility that the child would commit an offense dangerous to himself or the community pending disposition of the alleged offense, the child's prior record, if any, and whether there are other charges pending against the child.

(2)[~~(3)~~] If, after completion of the detention hearing, the court is of the opinion that detention is necessary, the order shall state on the record the specific reasons for detention.

Section 15. KRS 635.020 is amended to read as follows:

(1) If, prior to an adjudicatory hearing, there is a reasonable cause to believe that a child before the court has committed a felony other than those described in subsections (2) and (3) of this section, a misdemeanor, or a violation, the court shall initially proceed in accordance with the provisions of this chapter.

(2) If a child charged with a capital offense, Class A felony, or Class B felony, had attained age fourteen (14) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(3) If a child charged with a Class C or Class D felony has on one (1) prior separate occasion been adjudicated a public offender for a felony offense and had attained the age of sixteen (16) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(4) Any other provision of KRS Chapters 610 to 645 to the contrary notwithstanding, if a child charged with a felony in which a firearm, whether functional or not, was used in the commission of the offense had attained the age of fourteen (14) years at the time of the commission of the alleged offense, he shall be transferred to the Circuit Court for trial as an adult if, following a preliminary hearing, the District Court finds probable cause to believe that the child committed a felony, that a firearm was used in the commission of that felony, and that the child was fourteen (14) years of age or older at the time of the commission of the alleged felony. If convicted in the Circuit Court, he shall be subject to the same penalties as an adult offender, except that until he reaches the age of eighteen (18) years, he shall be confined in a[~~ secure detention~~] facility ***or program*** for juveniles or for youthful offenders, unless the provisions of KRS 635.025 apply or unless he is released pursuant to expiration of sentence or parole, and at age eighteen (18) he shall be ***returned to the sentencing Circuit Court for proceedings consistent with KRS 640.030(2)***[~~ transferred to an adult facility operated by the Department of Corrections to serve any time remaining on his sentence~~].

(5) If a child previously convicted as a youthful offender under the provisions of KRS Chapter 640 is charged with a felony allegedly committed prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(6) A child who is charged as is provided in subsection (2) of this section and is also charged with a Class C or D felony, a misdemeanor, or a violation arising from the same course of conduct shall have all charges included in the same proceedings; and the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(7) If a person who is eighteen (18) or older and before the court is charged with a felony that occurred prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(8) All offenses arising out of the same course of conduct shall be tried with the felony arising from that course of conduct, whether the charges are adjudicated under this chapter or under KRS Chapter 640 and transferred to Circuit Court.

Section 16. KRS 635.060 is amended to read as follows:

If in its decree the juvenile court finds that the child comes within the purview of this chapter, the court, at the dispositional hearing, may:

(1) Order the child or his parents, guardian, or person exercising custodial control to make restitution or reparation to any injured person to the extent, in the sum and upon the conditions as the court determines. However, no parent, guardian, or person exercising custodial control shall be ordered to make restitution or reparation unless the court has provided notice of the hearing, provided opportunity to be heard, and made a finding that the person's failure to exercise reasonable control or supervision was a substantial factor in the child's delinquency; or

(2) Place the child on probation, home incarceration, or under supervision in the child's own home or in a suitable home or boarding home, upon the conditions that the court shall determine. A child placed on probation, home incarceration, or supervision shall be subject to the visitation and supervision of a probation officer or an employee of the Department of Juvenile Justice ***and, unless the court's order contains a specific sanction to be imposed in the event that a violation of probation occurs, a violation of probation may result in commitment***. Except as provided in KRS 635.083, a child placed on probation, home incarceration, or supervision shall remain subject to the jurisdiction of the court until the child becomes eighteen (18) years of age, unless the child is discharged prior thereto by the court, except that if a person is placed on probation, home incarceration, or supervision after the person reaches the age of seventeen (17) years and six (6) months, the probation, home incarceration, or supervision shall be for a period not to exceed one (1) year; or

(3) Commit or recommit the child to the custody or guardianship of the Department of Juvenile Justice, a child-caring facility, a child-placing agency authorized to care for the child, or place the child under the custody and supervision of a suitable person. If the child is detained in an approved secure juvenile detention facility ***or***[~~,~~] juvenile holding facility[~~, or intermittent holding facility~~] in accordance with KRS 15A.200 to 15A.240 at the time the child is committed or recommitted to the custody of the Department of Juvenile Justice, the Department of Juvenile Justice shall accept physical custody of the child, remove the child from the approved secure juvenile detention facility or juvenile holding facility, and secure appropriate placement as soon as possible but not to exceed thirty-five (35) days of the time of commitment or recommitment. The Department of Juvenile Justice shall pay for the cost of detention from the date of commitment or recommitment, on the current charge, until the child is removed from the detention facility and placed. All orders of commitment may include advisory recommendations the court may deem proper in the best interests of the child and of the public. The commitment or placement shall be until the age of eighteen (18), subject to KRS 635.070 and to the power of the court to terminate the order and discharge the child prior thereto, except that if the commitment or placement is after a person has reached the age of seventeen (17) years and six (6) months, the commitment or placement shall be for an indeterminate period not to exceed one (1) year. The court, in its discretion, upon motion by the child and with the concurrence of the Department of Juvenile Justice, may authorize an extension of commitment up to age twenty-one (21) to permit the Department of Juvenile Justice to assist the child in establishing independent living arrangements; or

(4) If the child is fourteen (14) years of age but less than sixteen (16) years of age, order that the child be confined in an approved secure juvenile detention facility, juvenile holding facility, or approved detention program as authorized by the Department of Juvenile Justice in accordance with KRS Chapter 15A for a period of time not to exceed forty-five (45) days; or

(5) If the child is sixteen (16) years of age or older, order that the child be confined in an approved secure juvenile detention facility, juvenile holding facility, or approved detention program as authorized by the Department of Juvenile Justice in accordance with KRS Chapter 15A for a period of time not to exceed ninety (90) days; or

(6) Any combination of the dispositions listed above.

The Department of Juvenile Justice shall pay for the confinement of children confined pursuant to subsections (4) or (5) of this section in accordance with the statewide detention plan and administrative regulations implementing the plan.

Section 17. KRS 635.085 is amended to read as follows:

(1) In lieu of commitment to the Department of Juvenile Justice, if a child is adjudicated a public offender, the court may in its discretion impose a fine. The imposition of a fine for an offense committed by a child shall be based upon a determination that such disposition is in the best interest of the child and to aid in his rehabilitation. Any such order shall include a finding that the child is financially able to pay the fine. Fines shall be levied consistent with the schedule set forth below:

    (a) For a felony, not to exceed five hundred dollars ($500);
    (b) For a misdemeanor, not to exceed two hundred fifty dollars ($250); and
    (c) For a violation, not to exceed one hundred dollars ($100).

(2) When a child is directed by the court to pay a fine, the court may provide for payment to be made within a specified period of time or in specified installments. If such provision is not made a part of the court's disposition, the fine shall be payable immediately. Nothing contained herein shall be construed as limiting the court's inherent contempt powers.

(3) Any public offender detained for failure to comply with the court order shall not be scheduled for a time that would interfere with the educational, occupational, or religious obligations of the child, and shall be in a secure juvenile detention

facility ~~[or]~~juvenile holding facility***, or approved detention program authorized by the Department of Juvenile Justice in accordance with Chapter 15A***. Any portion of a day a child is detained pursuant to the court's exercising its contempt powers shall be deemed as one (1) day for purposes of serving a detention term.

(4) Fines imposed and collected pursuant to this section shall be paid by the circuit clerk to the fund specified in KRS 431.100.

SECTION 18. KRS 15A.314 IS REPEALED, AMENDED, AND REENACTED AS A NEW SECTION OF KRS CHAPTER 194A TO READ AS FOLLOWS:

The Cabinet for Health Services shall update its database within thirty (30) days of receipt of information. The update shall include information from the:

(1) Offender records;

(2) Institutional records; and

(3) Administrative records.

Section 19. The following KRS sections are repealed:

15A.245 Detention Facility Standards Committee -- Membership.

15A.250 Local alternatives to detention fund.

15A.260 Use of fund.

The Committee Substitute to **HB 145** is as follows:

HB 145, AN ACT relating to juvenile justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15A.067 is amended to read as follows:

(1) As used in this section, "facility" means any of the facilities specified in KRS 15A.200 operated by a political subdivision of the Commonwealth of Kentucky ***and juvenile detention facilities operated by the Commonwealth of Kentucky*** for the care of juveniles alleged to be delinquent or adjudicated delinquent.

(2) (a) There is established within the Department of Juvenile Justice a Division of Program Services that shall be responsible for ensuring the delivery of appropriate educational programs to incarcerated youth. Each facility shall provide educational services to youth~~[who may be]~~ ordered by the court to remain in the juvenile detention facility~~[for an indeterminate period]~~.

(b) Any other statutes to the contrary notwithstanding, the Department of Juvenile Justice shall have access to all educational records, public or private, of any juvenile in a facility or program or informal adjustment authorized by law.

(c) The Division of Program Services shall ensure that all incarcerated youth be provided appropriate screening and educational programs as follows:

1. For students identified before incarceration as having an educational disability, the Division of Program Services shall make specially designed instruction and related services available as required by Kentucky Board of Education administrative regulations applicable to students with disabilities.

2. For students incarcerated for more than fourteen (14) days, the division shall ensure that appropriate screening is provided to all youth. Screening shall include, but not be limited to, seeking the juvenile's educational record.

3. For students incarcerated for more than thirty (30) days, the division shall ensure that all youth are provided an appropriate education.

(d) The Department of Juvenile Justice shall be responsible for providing, in its contracts with private juvenile detention facilities and county jails, the specific obligations of those entities to provide educational services to incarcerated juveniles consistent with this section, including funding provisions.

(e) The Department of Education and all local school district administrators shall cooperate with officials responsible for the operation of juvenile detention facilities and with the Division of Program Services to ensure that all documents necessary to establish educational status and need shall follow the students who are being held in these facilities so the students can be afforded educational opportunities.

(f) 1. Upon disposition by the juvenile court that an adjudicated juvenile shall stay in a juvenile detention facility for any period of time, the facility shall notify the juvenile's last resident school district of the student's whereabouts.

2. Within five (5) days after the juvenile is released, the Division of Program Services shall notify the district in which the student will reside of the youth's release and educational status and forward any educational records.

(g) The Department of Juvenile Justice shall, after consultation with the Department of Education, promulgate an administrative regulation for the effective implementation of this section.

(3) There is established within the Department of Juvenile Justice a Division of Placement Services that shall be responsible for the management, policy direction, and coordination of all matters relating to the classification, evaluation, and placement of juveniles committed to or detained by the department. The division shall also be responsible for the transportation of juveniles committed to or detained by the department.

(a) Any juvenile who is committed to the department and is not placed in a residential treatment facility or a juvenile detention facility shall be placed by the division in a facility within the county of adjudication or sentencing.

(b) If such a facility is not available within the county of adjudication or sentencing, or if the division believes that placement in a different facility is in the best interest of the juvenile, then the division shall notify the court of its intention to place the juvenile in the nearest county where such a facility is available or in another facility that the division believes is in the best interest of the juvenile. The division shall also notify a department caseworker in the county where the juvenile is placed. The caseworker shall then monitor the placement and treatment of the juvenile.

(c) Prior to enrolling any juvenile who is committed or detained by the department, the division shall inform the superintendent of the school district and the court in the county of placement of the juvenile's complete offense record. This record shall be kept confidential by the superintendent subject to the exceptions in subsection (5) of Section 21 of this Act and any penalties for a violation thereof.

Section 2. KRS 15A.200 is amended to read as follows:

As used in KRS 15A.210 to 15A.240 and KRS 15A.990:

(1) "Certified juvenile facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Department of Juvenile Justice[~~ after consultation with other appropriate state agencies~~];

(2) "Intermittent holding facility" means a physically secure setting, approved by the Department of Juvenile Justice, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners in which a child accused of a public offense may be detained for a period not to exceed *twenty-four (24)*[~~seventy-two (72)~~] hours, exclusive of weekends and holidays, prior to a detention hearing as provided in KRS 610.265, and in which children are supervised and observed on a regular basis by certified juvenile facility staff. Employees of jails who meet the qualifications of the Department of Juvenile Justice may supervise juvenile as well as adult prisoners;

(3) "Juvenile holding facility" means a physically secure setting, approved by the Department of Juvenile Justice, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas, and which is staffed exclusively by sufficient certified juvenile facility staff to provide twenty-four (24) hours-per-day, supervision. Employees of jails who meet the qualifications of the Department of Juvenile Justice may supervise juvenile as well as adult prisoners;

(4) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lockup, intermittent holding facility, or any building which is a part of or attached to any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;[~~ and~~]

(5) "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the nonsecure detention of juveniles*; and*

(6) The term "facility" or "facilities" as used in KRS 15A.210 to 15A.240 shall mean the facilities defined in this section.

Section 3. KRS 15A.210 is amended to read as follows:

(1) The Department of Juvenile Justice shall *promulgate*[~~, after consultation with the Detention Facility Standards Committee, issue~~] and enforce administrative regulations to govern at least the following aspects of the operation of[~~ secure juvenile detention facilities and juvenile holding~~] facilities:

(a)[~~(1)~~] Administration;

(b)[~~(2)~~] Personnel;

(c)[~~(3)~~]Training and staff development;

(d)[~~(4)~~] Recordkeeping;

(e)[~~(5)~~]Physical plant;

(f)[~~(6)~~] Security and control;

(g)[~~(7)~~] Safety and emergency procedures;

(h)[~~(8)~~] Sanitation and hygiene;

(i)[~~(9)~~] Medical and health services;

(j)[~~(10)~~] Food services;

(k)[~~(11)~~] Intake and classification;

(l)[~~(12)~~] Programs and services;

(m)[~~(13)~~] Residents' rights;

(n)[~~(14)~~] Rules and discipline;

(o)[~~(15)~~] Admission procedures;

(p)[~~(16)~~] Communication, including mail, visitation, and telephone;

(q)[~~(17)~~] Release preparation and transfer programs;[~~ and~~]

(r)[~~(18)~~] Volunteer involvement*;*

(s) Transfers;

(t) Reimbursement rates and conditions; and

(u) Detention facility rate increases.

(2) Administrative regulations promulgated under this section shall specifically identify new requirements of the law which increase the cost of operating a juvenile facility not operated by the Department of Juvenile Justice. The administrative regulations shall identify the amount and source of funding for compliance with the new requirements.

Section 4. KRS 15A.220 is amended to read as follows:

(1) [~~On or before July 1, 1998, ~~]Each person or organization operating a[~~ secure juvenile detention~~] facility shall register with the *Department of Juvenile* Justice[~~ Cabinet~~] and shall comply with the regulations issued pursuant to KRS 15A.210.

(2) [~~After July 1, 1998, ~~]Each organization operating or seeking to operate *or expand* a[~~ secure juvenile detention facility or juvenile holding~~] facility shall:

(a) Apply to the Department of Juvenile Justice in a period of time set by *administrative* regulation prior to the scheduled opening of the[~~ secure juvenile detention facility or juvenile holding~~] facility;

(b) Permit inspection of the[~~ secure juvenile detention facility or juvenile holding~~] facility by the Department of Juvenile Justice not less than thirty (30) days prior to the scheduled opening of the facility; and

(c) Supply to the Department of Juvenile Justice not less than thirty (30) days prior to the scheduled opening of the[~~ secure juvenile detention~~] facility all data, plans, and other materials required by the *Department of Juvenile* Justice[~~ Cabinet~~].

(3) No[~~ secure juvenile detention facility or juvenile holding~~] facility shall operate[~~ after July 1, 1998,~~] except with the approval of the Department of Juvenile Justice.

(4) The Department of Juvenile Justice shall have the authority, upon thirty (30) days' written notice to the county judge/executive and jailer of any county that operates a juvenile detention facility and is located within an area served by a state-operated juvenile detention facility, to decertify any juvenile detention facility and that facility shall, at the expiration of the thirty (30) day period, cease detaining juveniles.

Section 5. KRS 15A.230 is amended to read as follows:

(1) [~~After July 1, 1998, ~~]The Department of Juvenile Justice shall inspect, at least annually, each registered[~~ secure juvenile detention~~] facility to assure its compliance with administrative regulations.

(2) [~~After July 1, 1998, ~~]The Department of Juvenile Justice may require reports and other data at least annually from each[~~ secure juvenile detention facility and juvenile holding~~] facility.

Section 6. KRS 15A.300 is amended to read as follows:

(1) The Department of Juvenile Justice or a local organization approved by the Department of Juvenile Justice may form local juvenile delinquency prevention councils for the purpose of encouraging the initiation of, or supporting ongoing, interagency cooperation and collaboration in addressing juvenile crime and juvenile status offenses.

(2) The membership of the local council shall be determined by the Department of Juvenile Justice and shall include representatives of law enforcement, the school system, the Department for Community Based Services, the Court of Justice, the Commonwealth's attorney, the county attorney, a representative of a county juvenile detention facility, and the Department for Public Advocacy. The members of the council shall be appointed as provided by the department by administrative regulation and shall be appointed for not longer than four (4) years, but members may be reappointed for a successive term. A member of the council shall receive no salary for service as a member of the council but may be reimbursed for expenses in the same manner as a state employee.

(3) The duties and responsibilities of a juvenile delinquency prevention council shall include but not be limited to:

(a) Developing a local juvenile justice plan based upon utilization of the resources of law enforcement, the school system, the Department of Juvenile Justice, the Department for Community Based Services, the Administrative Office of the Courts, and others in a cooperative and collaborative manner to prevent or discourage juvenile delinquency and to develop meaningful alternatives to incarceration;

(b) Entering into a written local interagency agreement specifying the nature and extent of contributions that each signatory agency will make in achieving the goals of the local juvenile justice plan;

(c) Sharing of information as authorized by law to carry out the interagency agreements;

(d) Applying for and receiving public or private grants to be administered by one (1) of the participating cities or counties or other public agencies; and

(e) Providing a forum for the presentation of interagency recommendations and the resolution of disagreements relating to the contents of the interagency agreement or the performance by the parties of their respective obligations under the agreement.

(4) Training of council members shall be the responsibility of the department.

(5) The Department of Juvenile Justice may provide grants to the councils to establish or enhance prevention programs.

(6) *To assist in the development of a local juvenile delinquency prevention plan, juvenile delinquency prevention councils shall be entitled to request and receive statistical information and aggregate data not descriptive of any readily identifiable person from any public agency, as defined in KRS 61.870.*

(a) A request for statistical information and aggregate data from the juvenile delinquency prevention council shall be in writing and signed by the chairperson of the council, and shall include a statement of why the information is being requested, why it is needed, and how it will be used by the council.

(b) Any public agency receiving a written request from the chairperson of a juvenile delinquency prevention council for aggregate data or statistical information shall provide the requested information or respond to the council stating reasons why the requested information cannot be provided, within thirty (30) days of receiving the request.

(7) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A that relate to:

(a) The formation of councils;

(b) The operation of councils;

(c) The duties of councils; and

(d) The administration and operation of the grant program.

Section 7. KRS 15A.305 is amended to read as follows:

(1) The Department of Juvenile Justice shall, with available funds, develop and administer a statewide detention program and, as each regional facility is constructed and ready for occupancy, shall, within appropriation limitations, provide for:

(a) The operation of preadjudication detention facilities for children charged with public offenses; and

(b) The operation of postadjudication detention facilities for children adjudicated delinquent or found guilty of public offenses.

[~~Funds appropriated for the purposes of this section shall only be used for facilities defined in KRS 15A.200.~~]

(2) In each region in which the Department of Juvenile Justice operates or contracts for the operation of a detention facility, the department shall, within appropriation limitations, develop and administer a program for alternatives to *secure* detention that shall provide for:

(a) The operation of or contracting for the operation of preadjudication alternatives to *secure* detention and follow-up programs for *juveniles*[~~children~~] who are before the court and who enter pretrial diversion or informal adjustment programs; and

(b) The operation of or contracting for the operation of postadjudication alternatives to *secure* detention and follow-up programs, including but not limited to community-based programs, mentoring, counseling, and other programs designed to limit the unnecessary use of secure detention and ensure public safety.

(3) The department *may*[~~shall~~], except as provided in KRS 635.060, charge counties and urban-county governments a per diem not to exceed ninety-four dollars ($94) for lodging juveniles in state-owned or contracted[~~ preadjudication~~] facilities.

(4) Detention rates charged by contracting detention facilities shall not exceed the rate in effect on July 1, 1997, subject to increases approved by the department.

(5)[~~ The Department of Juvenile Justice shall issue and enforce administrative regulations to govern the following:~~

~~(a) Administration;~~

~~(b) Intake and classification;~~

~~(c) Programs and services;~~

~~(d) Recordkeeping;~~

~~(e) Rules and discipline;~~

~~(f) Transfers;~~

~~(g) Reimbursement rates and conditions; and~~

~~(h) Detention facility rate increases.~~

[~~(6)~~] No juvenile detention facility***, as defined in Section 2 of this Act,***[~~ or juvenile holding facility~~] shall be taken over, purchased, or leased by the Commonwealth without prior approval of the fiscal court upon consultation with the jailer in the county where the facility is located. The county, upon consultation with the jailer, may enter into contracts with the Commonwealth for the holding, detention, and transportation of juveniles.

[~~(7) Administrative regulations promulgated under subsection (5) of this section shall specifically identify new requirements of the law which increase the cost of operating a juvenile facility not operated by the Department for Juvenile Justice. The administrative regulations shall identify the amount and source of funding for compliance with the new requirements.~~]

Section 8. KRS 605.080 is amended to read as follows:

(1) Any child ordered to be transported, by a committing or sentencing court, shall be transported by the sheriff or the jailer of that county. Any other law enforcement agency may enter into agreements with the court, sheriff, or jailer to transport juveniles.

(2) Any peace officer who conveys a child from the committing court or from the detention facility of the committing court to a residential treatment facility or other facility operated by the Department of Juvenile Justice or the cabinet shall be allowed an amount prescribed by regulation adopted by the Finance and Administration Cabinet calculated by the nearest traveled route, and shall be paid for all necessary expenses for feeding, lodging, and transporting the child. The officer shall make out a full account of all expenses so incurred by him and give the distance traveled. The account shall be verified by the officer upon oath before the District Court and certified by the circuit clerk to the Department of Juvenile Justice or the cabinet, as appropriate, for payment out of funds appropriated to the Department of Juvenile Justice or the cabinet for this purpose. The child's presence shall be necessary at a postdispositional proceeding only as required by court order for good cause. Transportation shall be provided as in subsection (1) of this section and expenses for transportation of a child to a proceeding from a residential treatment facility or other facility operated by the Department of Juvenile Justice or the cabinet shall be paid out of the State Treasury.

(3) No child shall be transported to any residential treatment facility or other facility, pursuant to order of any court[~~ or direction of the cabinet~~], unless accompanied by an attendant of the same gender, ***unless that child***[~~or~~], when authorized in writing by the court, the Department of Juvenile Justice, or the cabinet, ***is transported*** by a parent, grandparent, or adult brother or sister.

(4) The agent of any residential treatment facility or other facility which receives a child transported to the facility shall report any violation of subsection ***(3)***[~~(2)~~] of this section to the Commonwealth's attorney of the judicial circuit in which the facility is located.

(5) The Department of Juvenile Justice or the cabinet may ***transport or*** pay the necessary traveling expenses of children committed to it for care and treatment from their homes to the residential treatment facility or other facility or home to which they are committed, and the traveling expenses of such children from the facility or home to their homes when discharged or placed on supervised placement.

Section 9. KRS 605.095 is amended to read as follows:

(1) The Department of Juvenile Justice shall operate or contract for the operation of any postadjudication juvenile detention or treatment facility in which a juvenile is confined for a public offense or as a youthful offender.

(2) Not less than one (1) facility specified in subsection (1) of this section shall be a secure facility with a security level comparable to a medium-security adult facility.

(3) The Department of Juvenile Justice shall operate or contract for the operation of any postadjudication juvenile treatment, rehabilitation, probation, or parole programs, diversion or alternatives to ***secure*** detention programs, or other programs for juvenile offenders to which a juvenile ***committed as a public offender or sentenced as a youthful offender*** has been assigned.

(4) A juvenile detained in a department-operated postadjudication detention or treatment facility may be transferred to a Department of Corrections facility at any time as provided by KRS 640.070 or other specific statute.

Section 10. KRS 605.110 is amended to read as follows:

(1) Unless provided otherwise, when any child committed to ***or in the custody of*** the Department of Juvenile Justice or the cabinet requires medical or surgical care or treatment, the Department of Juvenile Justice or the cabinet may provide the same or arrange for the furnishing thereof by other public or private agencies, and may give consent to the medical or surgical treatment. For this purpose, the services and facilities of local health officers and departments shall be made available, at a cost not to exceed the Medicaid reimbursement rate, to the Department of Juvenile Justice or the cabinet, and as far as practicable, any publicly-owned hospital shall provide hospitalization without charge for any such child who is a resident of the political subdivision by which the hospital is owned or operated. This section does not authorize nor shall permission be granted for abortion or sterilization.

(2) Any child placed in a foster home by an agency duly authorized in KRS Chapter 620 to place a child in a foster home shall receive a complete medical, visual, and dental examination by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. Arrangements for a child placed in a foster home to receive such examinations shall be made within two (2) weeks of his placement in a foster home and not less than every twelve (12) months thereafter.

(3) Children maintained in any of the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet shall, so far as possible, receive a common school education.

- (a) The Kentucky Educational Collaborative for State Agency Children shall be established to serve children in facilities and programs operated or contracted by the Department of Juvenile Justice or the Cabinet for Families and Children, residential, day treatment, clinical, and group home programs. All policies and procedures necessary to educate state agency children shall be approved by the Kentucky Board of Education. All duties, responsibilities, rights, and privileges specifically imposed on or granted to the local education administration units shall be imposed on or granted to the Department of Juvenile Justice or the Cabinet for Families and Children and contracted agencies with regard to educating agency children. Classrooms for the Kentucky Educational Collaborative for State Agency Children shall be within or near the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet. The Kentucky Department of Education, the Department of Juvenile Justice, and the Cabinet for Families and Children, Department for Community Based Services, shall develop a biennial plan regarding the educational needs and provisions of educational programs, with emphasis on the coordination of all treatment services and funds available to provide for the education of state agency children. The biennial plan shall include strategies to assure that teacher preparation programs include content related to working with state agency children and that adequate professional development opportunities for better meeting the needs of these students are available for teachers and schools.
- (b) Teachers and other staff shall be hired on contract through a local school district or if a local school district is not willing to participate, teachers may be hired by the Kentucky Educational Collaborative for State Agency Children or a contract may be entered into with a private provider of educational services. All certified educational staff hired by the Kentucky Educational Collaborative for State Agency Children shall be members of the Kentucky Teachers' Retirement System.
- (c) Beginning July 1, 1993, the Kentucky Education Collaborative for State Agency Children shall be financed through:
  - 1. The amount generated by state agency children under the Support Education Excellence in Kentucky program as provided in KRS 157.360 for the guaranteed base and adjustments for the number of at-risk students, exceptional students, and transportation costs;
  - 2. A per-pupil distribution of professional development funds with the collaborative serving as a consortium for state agency children;
  - 3. A per-pupil distribution of technology funds in accordance with the state education technology plan pursuant to KRS 156.670 and the formula for the distribution of funds to local school districts;
  - 4. A per-pupil distribution of textbook funds pursuant to KRS 157.100 and 157.190;
  - 5. The funding for school services for state agency children authorized by KRS 158.135; and
  - 6. Other grants and entitlements, including federal funds, identified in the implementation plan developed pursuant to paragraph (f) of this subsection for the education of Kentucky's children.
- (d) The commissioner of Juvenile Justice and the secretary of the Cabinet for Families and Children shall promulgate administrative regulations, pursuant to KRS Chapter 13A, with the assistance of the Kentucky Department of Education and upon recommendation of the Kentucky Board of Education regarding the governance, curriculum, and other topics necessary to educate state agency children. The regulations shall:
  - 1. Provide for the development and implementation of interagency agreements that:
    - a. Define the financial responsibility of each state and local agency for providing services to state agency children;
    - b. Establish procedures for resolving interagency disputes among agencies that are parties to the agreements; and
  - 2. Provide procedures for the implementation of the Kentucky statutes regarding school-based decision making, student outcomes, accountability, assessment, rewards and sanctions, technology, staff development, salaries, and the development of coordinated individual treatment, education, and transition plans to ensure compliance with present education and treatment laws and regulations specific to the needs of children in the programs of the Cabinet for Families and Children.
- (e) When the placement of a state agency child is changed so that the state agency child must transfer from one school or educational facility to a different school or educational facility, the school or educational facility that the state agency child is leaving shall, within two (2) days of the state agency child leaving, prepare an educational passport for the child, which shall be delivered to the cabinet or the Department of Juvenile Justice. The cabinet or the Department of Juvenile Justice shall, within two (2) days of enrolling a state agency child in a new school or educational facility, present the educational passport to the receiving school or educational facility.
- (f) The commissioner of Juvenile Justice and the secretary of the Cabinet for Families and Children and the commissioner of the state Department of Education shall initiate development of a plan for implementation of the Kentucky Educational Collaborative for State Agency Children.

Section 11. KRS 605.130 is amended to read as follows:

In addition to the other duties, functions, and responsibilities imposed by law, the cabinet, through its authorized representatives, shall have general supervision and management of all matters contained in KRS[~~ 605.090,~~] 620.150[~~,~~] and 620.170 and shall, wherever possible:

(1) Locate and plan for all children who are dependent, neglected, or abused;

(2) Cooperate with and assist the courts of the various counties;

(3) Assist Circuit Courts through services to children whenever requested by the court. The cabinet may charge a reasonable fee for such services to be taxed as costs by the court; and

(4) Perform such other services as may be deemed necessary for the protection of children.

Section 12. KRS 610.010 is amended to read as follows:

(1) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his ***or her*** eighteenth birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years, who allegedly:

  (a) Has committed a public offense prior to his ***or her*** eighteenth birthday, except a motor vehicle offense involving a child sixteen (16) years of age or older. A child sixteen (16) years of age or older taken into custody upon the allegation that ***the child***[~~he~~] has committed a motor vehicle offense shall be treated as an adult and shall have the same conditions of release applied to him ***or her*** as an adult. A child taken into custody upon the allegation that he ***or her*** has committed a motor vehicle offense who is not released under conditions of release applicable to adults shall be held, pending his ***or her*** appearance before the District Court, in a[~~ secure juvenile detention facility or a juvenile holding~~] facility ***as defined in Section 1 of this Act***[~~or, if neither is available, in an intermittent holding facility~~]. Children sixteen (16) years of age or older who are convicted of, or plead guilty to, a motor vehicle offense shall, if sentenced to a term of confinement, be placed in a[~~ secure juvenile detention facility or a juvenile holding~~] facility ***for that period of confinement preceding their eighteenth birthday and an adult detention facility for that period of confinement subsequent to their eighteenth birthday***. The term "motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent nor any offense which constitutes a felony;

  (b) Is beyond the control of the school or beyond the control of parents as defined in KRS 600.020;

  (c) Is an habitual truant from school;

  (d) Is an habitual runaway from his ***or her*** parent or other person exercising custodial control or supervision of the child;

  (e) Is dependent, neglected, or abused; or

  (f) Is mentally ill.

(2) Actions brought under subsection (1)(a) of this section shall be considered to be public offense actions.

(3) Actions brought under subsection (1)(b), (c), and (d) of this section shall be considered to be status offense actions.

(4) Actions brought under subsection (1)(e) of this section shall be considered to be dependency actions.

(5) Actions brought under subsection (1)(f) of this section shall be considered to be mental health actions.

(6) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of Circuit Courts over adoptions and proceedings for termination of parental rights.

(7) The court shall have no jurisdiction to make permanent awards of custody of a child except as provided by KRS 620.027.

(8) If the court finds an emergency to exist affecting the welfare of a child, or if the child is eligible for kinship care as established in KRS 605.120, it may make temporary orders for ***the child's***[~~his~~] custody; however, if the case involves allegations of dependency, neglect, or abuse, no emergency removal or temporary custody orders shall be effective unless the provisions of KRS Chapter 620 are followed. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the Circuit Court awarding custody of such child, all prior orders of the juvenile session of the District Court in conflict therewith shall be deemed canceled. This section shall not work to deprive the Circuit Court of jurisdiction over cases filed in Circuit Court.

(9) The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state shall have concurrent jurisdiction over such child with the court of the county wherein the child resides or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of ***the***[~~his~~] case, or in its discretion may make an order transferring the case to the court of the county of ***the child's***[~~his~~] residence or the county wherein the offense was committed, as the case may be.

(10) Nothing in this chapter shall prevent the District Court from holding a child in contempt of court to enforce valid court orders previously issued by the court.

(11) Except as provided in KRS 635.060(3), nothing in this chapter shall confer upon the District Court jurisdiction over the actions of the Department of Juvenile Justice or the cabinet in the placement, care, or treatment of a child committed to the Department of Juvenile Justice or the cabinet; or to require the department or the cabinet to perform, or to refrain from performing, any specific act in the placement, care, or treatment of any child committed to the department or the cabinet.

(12) Unless precluded by KRS Chapter 635 or 640, in addition to informal adjustment, the court shall have the discretion to amend the petition to reflect jurisdiction pursuant to the proper chapter of the Kentucky Unified Juvenile Code.

(13) The court shall have continuing jurisdiction over a child pursuant to subsection (1) of this section, to review dispositional orders, and to conduct permanency hearings under 42 U.S.C. sec. 675(5)(c) until the child is placed for adoption, returned home to his ***or her*** parents with all the court imposed conditions terminated, or reaches the age of eighteen (18) years.

Section 13. KRS 610.120 is amended to read as follows:

(1) Except as otherwise provided by KRS Chapters 605 and 635, an order of commitment or an order of protective supervision or probation made by the court in the case of a child may be continued or terminated at any time prior to expiration on the court's own initiative or on motion by:

(a) A child who is affected by an order of juvenile session of District Court;

(b) The family, custodian, guardian, or legal representative of such a child;

(c) The Department of Juvenile Justice or the cabinet;

(d) The county attorney of the county in which the committing court presides; or

(e) Any other person having an interest in the welfare of the child.

(2) Grounds for such action may include but are not limited to allegations that there has been a substantial change of material circumstances, there exists new evidence affecting the disposition of the child, the child is no longer in need of commitment, probation, or placement, the child has not responded to or benefited from treatment or the child has not received adequate and proper treatment, the original proceedings were not conducted in the manner required by law or the public interest requires termination of the order. Upon review of the child's case, the Department of Juvenile Justice, the cabinet, any agency, facility, or individual responsible for the supervision, care, or treatment of the child shall divulge and communicate such information regarding the child as the court may require.

(3) Except as otherwise provided by KRS Chapter 640 relating to youthful offenders, and KRS 610.110, 620.140, 635.060,[~~ or~~] 635.090***, or 635.515*** relating to extending commitment beyond the age of eighteen (18), an order of commitment, temporary custody, or an order of protective supervision or probation made by the court in the case of a child shall be terminated when the child attains the age of eighteen (18). At least fourteen (14) days prior to the committed child's eighteenth birthday, the Department of Juvenile Justice or the cabinet shall prepare a summary of the information concerning the child and submit it with written notification to the committing court that a child's commitment is due to expire.

Section 14. KRS 610.280 is amended to read as follows:

(1) At the detention hearing held pursuant to KRS 610.265, the court shall make separate findings as follows:

(a) If there is probable cause to believe that an offense has been committed and that the accused child committed that offense. Probable cause may be established in the same manner as in a preliminary hearing in cases involving adults accused of felonies. The child shall be afforded the right to confront and cross-examine witnesses. The Commonwealth shall bear the burden of proof, and if it should fail to establish probable cause, the child shall be released and the complaint or petition dismissed unless the court determines further detention is necessary to assure the appearance of the child in court on another pending case;

(b) In determining whether a child should be further detained, the court shall consider the seriousness of the alleged offense, the possibility that the child would commit an offense dangerous to himself or the community pending disposition of the alleged offense, the child's prior record, if any, and whether there are other charges pending against the child.

(2)[~~(3)~~] If, after completion of the detention hearing, the court is of the opinion that detention is necessary, the order shall state on the record the specific reasons for detention.

Section 15. KRS 635.020 is amended to read as follows:

(1) If, prior to an adjudicatory hearing, there is a reasonable cause to believe that a child before the court has committed a felony other than those described in subsections (2) and (3) of this section, a misdemeanor, or a violation, the court shall initially proceed in accordance with the provisions of this chapter.

(2) If a child charged with a capital offense, Class A felony, or Class B felony, had attained age fourteen (14) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(3) If a child charged with a Class C or Class D felony has on one (1) prior separate occasion been adjudicated a public offender for a felony offense and had attained the age of sixteen (16) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(4) Any other provision of KRS Chapters 610 to 645 to the contrary notwithstanding, if a child charged with a felony in which a firearm, whether functional or not, was used in the commission of the offense had attained the age of fourteen (14) years at the time of the commission of the alleged offense, he shall be transferred to the Circuit Court for trial as an adult if, following a preliminary hearing, the District Court finds probable cause to believe that the child committed a felony, that a firearm was used in the commission of that felony, and that the child was fourteen (14) years of age or older at the time of the commission of the alleged felony. If convicted in the Circuit Court, he shall be subject to the same penalties as an adult offender, except that until he reaches the age of eighteen (18) years, he shall be confined in a~~[secure detention]~~ facility ***or program*** for juveniles or for youthful offenders, unless the provisions of KRS 635.025 apply or unless he is released pursuant to expiration of sentence or parole, and at age eighteen (18) he shall be ***returned to the sentencing Circuit Court for proceedings consistent with KRS 640.030(2)***~~[transferred to an adult facility operated by the Department of Corrections to serve any time remaining on his sentence]~~.

(5) If a child previously convicted as a youthful offender under the provisions of KRS Chapter 640 is charged with a felony allegedly committed prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(6) A child who is charged as is provided in subsection (2) of this section and is also charged with a Class C or D felony, a misdemeanor, or a violation arising from the same course of conduct shall have all charges included in the same proceedings; and the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(7) If a person who is eighteen (18) or older and before the court is charged with a felony that occurred prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(8) All offenses arising out of the same course of conduct shall be tried with the felony arising from that course of conduct, whether the charges are adjudicated under this chapter or under KRS Chapter 640 and transferred to Circuit Court.

Section 16. KRS 635.060 is amended to read as follows:

If in its decree the juvenile court finds that the child comes within the purview of this chapter, the court, at the dispositional hearing, may:

(1) Order the child or his parents, guardian, or person exercising custodial control to make restitution or reparation to any injured person to the extent, in the sum and upon the conditions as the court determines. However, no parent, guardian, or person exercising custodial control shall be ordered to make restitution or reparation unless the court has provided notice of the hearing, provided opportunity to be heard, and made a finding that the person's failure to exercise reasonable control or supervision was a substantial factor in the child's delinquency; or

(2) Place the child on probation, home incarceration, or under supervision in the child's own home or in a suitable home or boarding home, upon the conditions that the court shall determine. A child placed on probation, home incarceration, or supervision shall be subject to the visitation and supervision of a probation officer or an employee of the Department of Juvenile Justice ***and, unless the court's order contains a specific sanction to be imposed in the event that a violation of probation occurs, a violation of probation may result in commitment***. Except as provided in KRS 635.083, a child placed on probation, home incarceration, or supervision shall remain subject to the jurisdiction of the court until the child becomes eighteen (18) years of age, unless the child is discharged prior thereto by the court, except that if a person is placed on probation, home incarceration, or supervision after the person reaches the age of seventeen (17) years and six (6) months, the probation, home incarceration, or supervision shall be for a period not to exceed one (1) year; or

(3) Commit or recommit the child to the custody or guardianship of the Department of Juvenile Justice, a child-caring facility, a child-placing agency authorized to care for the child, or place the child under the custody and supervision of a suitable person. If the child is detained in an approved secure juvenile detention facility ***or***~~[,]~~ juvenile holding facility~~[, or intermittent holding facility]~~ in accordance with KRS 15A.200 to 15A.240 at the time the child is committed or recommitted to the custody of the Department of Juvenile Justice, the Department of Juvenile Justice shall accept physical custody of the child, remove the child from the approved secure juvenile detention facility or juvenile holding facility, and secure appropriate placement as soon as possible***, consistent with Section 19 of this Act,*** but not to exceed thirty-five (35) days of the time of commitment or recommitment. The Department of Juvenile Justice shall pay for the cost of detention from the date of commitment or recommitment, on the current charge, until the child is removed from the detention facility and placed. All orders of commitment may include advisory recommendations the court may deem proper in the best interests of the child and of the public. The commitment or placement shall be until the age of eighteen (18), subject to

KRS 635.070 and to the power of the court to terminate the order and discharge the child prior thereto, except that if the commitment or placement is after a person has reached the age of seventeen (17) years and six (6) months, the commitment or placement shall be for an indeterminate period not to exceed one (1) year. The court, in its discretion, upon motion by the child and with the concurrence of the Department of Juvenile Justice, may authorize an extension of commitment up to age twenty-one (21) to permit the Department of Juvenile Justice to assist the child in establishing independent living arrangements; or

(4) If the child is fourteen (14) years of age but less than sixteen (16) years of age, order that the child be confined in an approved secure juvenile detention facility, juvenile holding facility, or approved detention program as authorized by the Department of Juvenile Justice in accordance with KRS Chapter 15A for a period of time not to exceed forty-five (45) days; or

(5) If the child is sixteen (16) years of age or older, order that the child be confined in an approved secure juvenile detention facility, juvenile holding facility, or approved detention program as authorized by the Department of Juvenile Justice in accordance with KRS Chapter 15A for a period of time not to exceed ninety (90) days; or

(6) Any combination of the dispositions listed above.

The Department of Juvenile Justice shall pay for the confinement of children confined pursuant to subsections (4) or (5) of this section in accordance with the statewide detention plan and administrative regulations implementing the plan.

Section 17. KRS 635.085 is amended to read as follows:

(1) In lieu of commitment to the Department of Juvenile Justice, if a child is adjudicated a public offender, the court may in its discretion impose a fine. The imposition of a fine for an offense committed by a child shall be based upon a determination that such disposition is in the best interest of the child and to aid in his rehabilitation. Any such order shall include a finding that the child is financially able to pay the fine. Fines shall be levied consistent with the schedule set forth below:

   (a) For a felony, not to exceed five hundred dollars ($500);

   (b) For a misdemeanor, not to exceed two hundred fifty dollars ($250); and

   (c) For a violation, not to exceed one hundred dollars ($100).

(2) When a child is directed by the court to pay a fine, the court may provide for payment to be made within a specified period of time or in specified installments. If such provision is not made a part of the court's disposition, the fine shall be payable immediately. Nothing contained herein shall be construed as limiting the court's inherent contempt powers.

(3) Any public offender detained for failure to comply with the court order shall not be scheduled for a time that would interfere with the educational, occupational, or religious obligations of the child, and shall be in a secure juvenile detention facility ~~[or]~~juvenile holding facility***, or approved detention program authorized by the Department of Juvenile Justice in accordance with KRS Chapter 15A***. Any portion of a day a child is detained pursuant to the court's exercising its contempt powers shall be deemed as one (1) day for purposes of serving a detention term.

(4) Fines imposed and collected pursuant to this section shall be paid by the circuit clerk to the fund specified in KRS 431.100.

SECTION 18. KRS 15A.314 IS REPEALED, AMENDED, AND REENACTED AS A NEW SECTION OF KRS CHAPTER 194A TO READ AS FOLLOWS:

The Cabinet for Health Services shall update its database within thirty (30) days of receipt of information. The update shall include information from the:

(1) Offender records;

(2) Institutional records; and

(3) Administrative records.

SECTION 19. A NEW SECTION OF KRS CHAPTER 635 IS CREATED TO READ AS FOLLOWS:

(1) If the Department of Juvenile Justice places a juvenile who is adjudicated delinquent as a public offender in a facility other than a residential treatment facility or a juvenile detention facility, then the juvenile shall be placed in a facility in the county of the adjudication.

(2) If such a facility is not available within the county of adjudication, or if the Department of Juvenile Justice believes that placement in a different facility is in the best interest of the juvenile, then the Department of Juvenile Justice shall notify the court of its intention to place the juvenile in the nearest county where such a facility is available or in another facility that the Department of Juvenile Justice believes is in the best interest of the juvenile. The Department of Juvenile Justice shall also notify a caseworker in the county where the juvenile is placed. The caseworker shall then monitor the placement and treatment of the juvenile.

(3) The Department of Juvenile Justice shall inform the superintendent in the school district and the court in the county of placement where the juvenile is to be enrolled of that juvenile's complete offense record. This record shall be kept confidential by the superintendent subject to the exceptions in subsection (5) of Section 21 of this Act and any penalties for a violation thereof.

SECTION 20. A NEW SECTION OF KRS CHAPTER 640 IS CREATED TO READ AS FOLLOWS:

(1) *If the department places a juvenile who is sentenced as a youthful offender in a facility other than a residential treatment facility or a juvenile detention facility, then the juvenile shall be placed in a facility in the county of the sentencing, or if there is no such facility available in that county then in the nearest county where such a facility is available.*

(2) *If such a facility is not available within the county of sentencing, or if the Department of Juvenile Justice believes that placement in a different facility is in the best interest of the juvenile, then the Department of Juvenile Justice shall notify the court of its intention to place the juvenile in the nearest county where such a facility is available or in another facility that the Department of Juvenile Justice believes is in the best interest of the juvenile. The Department of Juvenile Justice shall also notify a caseworker in the county where the juvenile is placed. The caseworker shall then monitor the placement and treatment of the juvenile.*

(3) *The Department of Juvenile Justice shall inform the superintendent in the school district and the court in the county of placement where the juvenile is to be enrolled of that juvenile's complete offense record. This record shall be kept confidential by the superintendent subject to the exceptions in subsection (5) of Section 21 of this Act and any penalties for a violation thereof.*

Section 21. KRS 610.345 is amended to read as follows:

(1) When a child is adjudicated guilty of an offense which classifies him as a youthful offender, the court in which the matter was tried shall notify the principal of any public or private elementary or secondary school which the child attends of the adjudication and the petition and disposition of the case. The name of the complainant shall be deleted. Upon written request of the authorized representative of the school, the court, if it deems it appropriate, may authorize the county attorney to give the school a statement of facts in the case.

(2) When a child is adjudicated guilty of an offense which would classify him as a violent offender under KRS 439.3401, or be a felony under KRS Chapter 218A, 508, 510, or 527 if committed by an adult, but which would not classify him as a youthful offender, the court in which the matter was tried shall notify within five (5) days of the order the principal of any public or private elementary or secondary school which the child attends of the charge, the adjudication, and the disposition of the case. The name of the complainant shall be deleted. Upon written request of the authorized representative of the school, the court, if it deems it appropriate, may authorize the county attorney to give the school a statement of facts in the case.

(3) When a petition is filed against a child, or a child is adjudicated guilty of an offense that would be a felony or misdemeanor if committed by an adult, and the misdemeanor involves a controlled substance or the possession, carrying, or use of a deadly weapon, or physical injury to another person, the court in which the matter is considered shall notify the principal of any public or private elementary or secondary school that the child attends of the charge, the adjudication, and the disposition of the case. The name of the complainant shall be deleted. Upon written request of the authorized representative of the school, the court, if it deems it appropriate, may authorize the county attorney to give the school a statement of the facts in the case, not to include the complainant's name.

(4) Notice of adjudication to the school principal referenced in subsections (1) and (2) of this section shall be released by the principal to employees of the school having responsibility for classroom instruction of the child and may be released to other school personnel as described in subsection (5) of this section, but the information shall otherwise be confidential and shall not be shared by school personnel with any other person or agency except as may otherwise be required by law. The notification in writing of the nature of the offense committed by the child and any probation requirements shall not become a part of the child's student record.

(5) Records or information disclosed pursuant to this section shall be limited to records of that student's criminal petition and the disposition thereof covered by this section, shall be subject to the provisions of KRS 610.320 and 610.340, and shall not be disclosed to any other person, including school personnel, except to public or private elementary and secondary school administrative, transportation, and counseling personnel, and to any teacher or school employee with whom the student may come in contact. This section shall not authorize the disclosure of any other juvenile record or information relating to the child.

(6) *The Department of Juvenile Justice may provide information on a child pursuant to this section upon the request of the superintendent of the local school district in which the child, who is committed to the department, is placed.*

(7) Records or information received by the school pursuant to this section shall be kept in a locked file, when not in use, to be opened only on permission of the administrator.

Section 22. The following KRS sections are repealed:

15A.245 Detention Facility Standards Committee -- Membership.

15A.250 Local alternatives to detention fund.

15A.260 Use of fund.

HB 228, AN ACT relating to criminal procedure.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 431.005 is amended to read as follows:

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his presence; or

(c) Without a warrant when he has probable cause to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his presence; or

(e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his presence, except that a violation of KRS 189A.010 or KRS 281A.210 need not be committed in his presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person has violated KRS 189A.010 or KRS 281A.210.

(2) (a) Any peace officer may arrest a person without warrant when the peace officer has probable cause to believe that the person has intentionally or wantonly caused physical injury to a family member or member of an unmarried couple.

(b) For the purposes of this subsection, the term "family member" means a spouse, including a former spouse, a parent, a grandparent, a child, a stepchild, or any other person related by consanguinity or affinity within the second degree.

(c) For the purpose of this subsection, the term "member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together.

(3) For purposes of subsection (2) of this section, a "peace officer" is:

(a) A full-time sworn officer of the Kentucky State Police, a full-time sworn officer of the Kentucky Horse Park, a commissioned full-time state park ranger, a full-time officer of the Division of Law Enforcement within the Department of Fish and Wildlife Resources who is exercising authority under KRS Chapter 235, a full-time city policeman, a full-time county policeman, a full-time university safety and security officer appointed pursuant to KRS 164.950 to 164.970, a full-time city-county policeman, a duly elected sheriff, [~~or~~]a full-time paid deputy sheriff***, or an airport police officer***; or

(b) A part-time paid law enforcement officer, or a special paid deputy, who has completed a Kentucky law enforcement council approved education and training program referred to in KRS 403.784.

(c) The provisions of this section relating to training shall not apply to a deputy sheriff who is subject to the training requirements specified in KRS 70.263(3).

(4) If a law enforcement officer has probable cause to believe that a person has violated a condition of release imposed in accordance with KRS 431.064 and verifies that the alleged violator has notice of the conditions, the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

(5) A private person may make an arrest when a felony has been committed in fact and he has probable cause to believe that the person being arrested has committed it.

The Committee Substitute to **HB 228** is as follows:

HB 228, AN ACT relating to criminal procedure.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 431.005 is amended to read as follows:

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his presence; or

(c) Without a warrant when he has probable cause to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his presence; or

(e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his presence, except that a violation of KRS 189A.010 or KRS 281A.210 need not be committed in his presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person has violated KRS 189A.010 or KRS 281A.210.

(2) (a) Any peace officer may arrest a person without warrant when the peace officer has probable cause to believe that the person has intentionally or wantonly caused physical injury to a family member or member of an unmarried couple.

(b) For the purposes of this subsection, the term "family member" means a spouse, including a former spouse, a parent, a grandparent, a child, a stepchild, or any other person related by consanguinity or affinity within the second degree.

(c) For the purpose of this subsection, the term "member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together.

(3) For purposes of subsection (2) of this section, a "peace officer" is:

(a) A full-time sworn officer of the Kentucky State Police, a full-time sworn officer of the Kentucky Horse Park, a commissioned full-time state park ranger, a full-time officer of the Division of Law Enforcement within the Department of Fish and Wildlife Resources who is exercising authority under KRS Chapter 235, a full-time city policeman, a full-time county policeman, a full-time university safety and security officer appointed pursuant to KRS 164.950 to 164.970, a full-time city-county policeman, a duly elected sheriff, [~~or~~]a full-time paid deputy sheriff***, or an airport safety and security officer appointed pursuant to KRS 183.880 while on airport property for an offense occurring on airport property or on an aircraft***; or

(b) A part-time paid law enforcement officer, or a special paid deputy, who has completed a Kentucky law enforcement council approved education and training program referred to in KRS 403.784.

(c) The provisions of this section relating to training shall not apply to a deputy sheriff who is subject to the training requirements specified in KRS 70.263(3).

(4) If a law enforcement officer has probable cause to believe that a person has violated a condition of release imposed in accordance with KRS 431.064 and verifies that the alleged violator has notice of the conditions, the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

(5) A private person may make an arrest when a felony has been committed in fact and he has probable cause to believe that the person being arrested has committed it.

HB 541, AN ACT relating to jurors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 29A.100 is amended to read as follows:

(1) Upon the request of a prospective juror prior to his assignment to a trial court, the Chief Circuit Judge, or after his assignment to a trial court, the trial judge may excuse such juror upon a showing of undue hardship, extreme inconvenience***,*** or public necessity.

(2) In his discretion the judge may excuse a juror from service entirely or may postpone the juror's service temporarily. Whenever possible the judge shall favor temporary postponement of service over permanent excuse. When excusing a juror, the judge shall record the juror's name, as provided in KRS 29A.080, and his reasons for granting the excuse.

(3) Upon the request of a prospective juror sixty-two (62) years of age or older prior to the juror's assignment to a trial court, the Chief Circuit Judge shall excuse the juror from service.

Section 2. KRS 29A.160 is amended to read as follows:

(1) An employer shall not deprive an employee of his employment ***or the compensation and benefits the employee would have received if the employee had worked the employee's usual and customary schedule***, or threaten or otherwise coerce him with respect ***to any of the foregoing***[~~thereto~~], because the employee receives a summons, responds thereto, serves as a juror, or attends court for prospective jury service. ***However, an employer may deduct from the amount of compensation due an employee under this subsection an amount equal to the amount of compensation paid to a juror under Section 3 of this Act if the juror received that compensation for a time period that would have been part of the juror's usual and customary workday with the employer.***

(2) If an employer discharges an employee in violation of subsection (1) of this section, the employee may within ninety (90) days of such discharge bring a civil action for recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee with full seniority and benefits. Damages recoverable shall not exceed lost wages. If he prevails, the employee shall be allowed a reasonable attorney's fee fixed by the court.

Section 3. KRS 29A.170 is amended to read as follows:

(1) All jurors in Circuit and District Court shall be paid ***twenty-five dollars ($25)***[~~five dollars ($5)~~] per day for jury service. In addition thereto, they shall be paid seven dollars and fifty cents ($7.50) per day as reimbursement of expenses incurred ***and ten dollars ($10) per day as a lunch allowance***, which sum is hereby determined to be the equivalent of the minimum daily expenses reasonably to be incurred by ***a***[~~such~~] juror.

(2) Persons who appear in court in response to a summons for jury duty and who are not relieved from jury service shall receive full compensation for each day they are required to be and are in attendance, even though they are not sworn or accepted for jury service.

The Committee Substitute to **HB 541** is as follows:

HB 541, AN ACT relating to jurors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 29A.160 is amended to read as follows:

(1) An employer shall not deprive an employee of his employment ***or the compensation and benefits the employee would have received if the employee had worked the employee's usual and customary schedule***, or threaten or otherwise coerce him with respect ***to any of the foregoing***[~~thereto~~], because the employee receives a summons, responds thereto, serves as a juror, or attends court for prospective jury service. ***However, an employer may deduct from the amount of compensation due an employee under this subsection an amount equal to the amount of compensation paid to a juror under Section 2 of this Act if the juror received that compensation for a time period that would have been part of the juror's usual and customary workday with the employer.***

(2) If an employer discharges an employee in violation of subsection (1) of this section, the employee may within ninety (90) days of such discharge bring a civil action for recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee with full seniority and benefits. Damages recoverable shall not exceed lost wages. If he prevails, the employee shall be allowed a reasonable attorney's fee fixed by the court.

Section 2. KRS 29A.170 is amended to read as follows:

(1) All jurors in Circuit and District Court shall be paid ***twenty-five dollars ($25)***[~~five dollars ($5)~~] per day for jury service. In addition thereto, they shall be paid seven dollars and fifty cents ($7.50) per day as reimbursement of expenses incurred ***and ten dollars ($10) per day as a lunch allowance***, which sum is hereby determined to be the equivalent of the minimum daily expenses reasonably to be incurred by ***a***[~~such~~] juror.

(2) Persons who appear in court in response to a summons for jury duty and who are not relieved from jury service shall receive full compensation for each day they are required to be and are in attendance, even though they are not sworn or accepted for jury service.

HB 571, AN ACT relating to intimidation and retaliation against participants in the legal process.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 524.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Judge" means any current or former justice or judge of the Court of Justice, a trial commissioner of the Court of Justice, and any person serving as a judge at a trial or judicial proceeding of or authorized by the Court of Justice. The term includes persons who have been elected or appointed, but have not yet taken office.

(2) "Juror" means a person who is ***or has been*** a member of any impaneled jury, including a grand jury, and includes any person who has been drawn or summoned to attend as a prospective juror.

(3) "Participant in the legal process" means any judge, prosecutor, juror, or witness and includes members of the participants immediate family.

[~~(2) "Physical evidence" means any article, object, document, record or other thing of physical substance.~~

~~(3) "Pecuniary benefit" means benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain.~~]

(4) "Official proceeding" means a proceeding heard before any legislative, judicial, administrative or other governmental agency or official authorized to hear evidence under oath, including any referee, hearing examiner, commissioner, notary or other person taking testimony or depositions in any such proceedings.

(5) "Pecuniary benefit" means benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain.

(6) "Physical evidence" means any article, object, document, record or other thing of physical substance.

(7) "Prosecutor" means a current or former Commonwealth's attorney, assistant Commonwealth's attorney, county attorney, assistant county attorney, attorney general, deputy attorney general, assistant attorney general, or special prosecutor appointed pursuant to law.

(8) "Threat" means any direct or indirect threat to kill or injure a person protected by this chapter or an immediate family member of such a person, or to damage or destroy any real or personal property of a person protected by this chapter or of a family member of such a person. Persons protected by this chapter include persons who have been elected or appointed but have not yet taken office.

(8) "Witness" means any person who may be called to testify in an official proceeding, has been called to testify in an official proceeding, is testifying in an official proceeding, or who has testified in an official proceeding.

Section 2. KRS 524.040 is amended to read as follows:

(1) A person is guilty of intimidating a ***participant in the legal process***[~~witness~~] when, by use of physical force or a threat directed to[~~ a witness or~~] a person he believes ***to be a participant in the legal process***[~~may be called as a witness in any official proceeding~~], he ***or she***:

(a) Influences, or attempts to influence, the testimony***, vote, decision, opinion, or other action*** of that person;

(b) Induces, or attempts to induce, that person to avoid legal process summoning him ***or her*** to testify;

(c) Induces, or attempts to induce, that person to absent himself ***or herself*** from an official proceeding to which he has been legally summoned;

(d) Induces, or attempts to induce, that person to withhold a record, document, or other object from an official proceeding;

(e) Induces, or attempts to induce, that person to alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;[~~ or~~]

(f) Hinders, delays, or prevents the communication to a law enforcement officer or judge of information relating to the possible commission of an offense or a violation of conditions of probation, parole or release pending judicial proceedings***;***

(g) Impedes the performance of his or her duty; or

(h) Intimidates the person.

(2) For purposes of this section:

(a) An official proceeding need not be pending or about to be instituted at the time of the offense; and

(b) The testimony, record, document or other object need not be admissible in evidence or free of a claim of privilege.

(3)[~~ "Threat" as used in this section means any threat proscribed in KRS~~ ~~***508.080 or***~~ ~~514.080.~~

~~(4)~~] Intimidating a ***participant in the legal process***[~~witness~~] is a Class ***C***[~~D~~] felony.

Section 3. KRS 524.055 is amended to read as follows:

(1) A person is guilty of retaliating against a ***participant in the legal process***[~~witness~~] when he ***or she*** engages or threatens to engage in conduct causing or intended to cause bodily injury or damage to the tangible property of a ***participant in the legal process***[~~witness~~] or a person he ***or she*** believes may be called as a ***participant in the legal process***[~~witness~~] in any official proceeding ***or because the person has participated in a legal proceeding***[~~for the witness's~~]:

(a) Attending an official proceeding, or giving or producing any testimony, record, document, or other object produced at that proceeding;[~~ or~~]

(b) Giving information to a law enforcement officer relating to the possible commission of an offense or a violation of conditions of probation, parole, or release pending judicial proceedings***;***

(c) Vote, decision, opinion, or other action;

(d) Performance of his or her duty; or

(e) To intimidate the participant.

(2) ***For purposes of this section:***

(a) An official proceeding need not be pending or about to be instituted at the time of the offense; and

(b) The testimony, record, document or other object need not be admissible in evidence or free of a claim of privilege.

(3) Retaliating against a witness is a Class ***C***[~~D~~] felony.

Section 4. KRS 524.050 is amended to read as follows:

(1) A person is guilty of tampering with a witness when, knowing that a person is or may be called as a witness in an official proceeding, he:

(a) Induces or attempts to induce the witness to absent himself or otherwise avoid appearing or testifying at the official proceeding with intent to influence the outcome thereby; or

(b) Knowingly makes any false statement or practices any fraud or deceit with intent to affect the testimony of the witness.

(2) Tampering with a witness is a Class ***D felony***[~~A misdemeanor~~].

Section 5. KRS 524.090 is amended to read as follows:

(1) A person is guilty of jury tampering when, with intent to influence a juror's vote, opinion, decision or other action in a case, he communicates or attempts to communicate, directly or indirectly, with a juror other than as a part of the proceedings in the trial of the case.

(2) Jury tampering is a Class ***D felony***[~~A misdemeanor~~].

Section 6. The following KRS sections are repealed:

524.045 Harassing a witness.
524.080 Intimidating a juror.
524.120 Intimidating a judicial officer.

The Committee Substitute to **HB 571** is as follows:

HB 571, AN ACT relating to intimidation and retaliation against participants in the legal process.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 524.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) ***"Judge" means any current or former justice or judge of the Court of Justice, a trial commissioner of the Court of Justice, and any person serving as a judge at a trial or judicial proceeding of or authorized by the Court of Justice. The term includes persons who have been elected or appointed, but have not yet taken office.***

(2) "Juror" means a person who is ***or has been*** a member of any impaneled jury, including a grand jury, and includes any person who has been drawn or summoned to attend as a prospective juror.

(3) "Participant in the legal process" means any judge, prosecutor, attorney defending a criminal case, juror, or witness and includes members of the participants immediate family.

[~~(2) "Physical evidence" means any article, object, document, record or other thing of physical substance.~~

~~(3) "Pecuniary benefit" means benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain.~~]

(4) "Official proceeding" means a proceeding heard before any legislative, judicial, administrative or other governmental agency or official authorized to hear evidence under oath, including any referee, hearing examiner, commissioner, notary or other person taking testimony or depositions in any such proceedings.

(5) "Pecuniary benefit" means benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain.

(6) "Physical evidence" means any article, object, document, record or other thing of physical substance.

(7) "Prosecutor" means a current or former Commonwealth's attorney, assistant Commonwealth's attorney, county attorney, assistant county attorney, attorney general, deputy attorney general, assistant attorney general, or special prosecutor appointed pursuant to law.

(8) "Threat" means any direct or indirect threat to kill or injure a person protected by this chapter or an immediate family member of such a person, or to damage or destroy any real or personal property of a person protected by this chapter or of a family member of such a person. Persons protected by this chapter include persons who have been elected or appointed but have not yet taken office.

(8) "Witness" means any person who may be called to testify in an official proceeding, has been called to testify in an official proceeding, is testifying in an official proceeding, or who has testified in an official proceeding.

Section 2. KRS 524.040 is amended to read as follows:

(1) A person is guilty of intimidating a ***participant in the legal process***[~~witness~~] when, by use of physical force or a threat directed to[~~ a witness or~~] a person he believes ***to be a participant in the legal process***[~~may be called as a witness in any official proceeding~~], he ***or she***:

- (a) Influences, or attempts to influence, the testimony***, vote, decision, opinion, or other action*** of that person;
- (b) Induces, or attempts to induce, that person to avoid legal process summoning him ***or her*** to testify;
- (c) Induces, or attempts to induce, that person to absent himself ***or herself*** from an official proceeding to which he has been legally summoned;
- (d) Induces, or attempts to induce, that person to withhold a record, document, or other object from an official proceeding;
- (e) Induces, or attempts to induce, that person to alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;[~~ or~~]
- (f) Hinders, delays, or prevents the communication to a law enforcement officer or judge of information relating to the possible commission of an offense or a violation of conditions of probation, parole or release pending judicial proceedings***;***
- ***(g) Impedes the performance of his or her duty; or***
- ***(h) Intimidates the person***.

(2) For purposes of this section:

- (a) An official proceeding need not be pending or about to be instituted at the time of the offense; and

(b) The testimony, record, document or other object need not be admissible in evidence or free of a claim of privilege.

(3)[~~ "Threat" as used in this section means any threat proscribed in KRS *508.080 or* 514.080.~~

~~(4)~~] Intimidating a ***participant in the legal process***[~~witness~~] is a Class D felony.

Section 3. KRS 524.055 is amended to read as follows:

(1) A person is guilty of retaliating against a ***participant in the legal process***[~~witness~~] when he ***or she*** engages or threatens to engage in conduct causing or intended to cause bodily injury or damage to the tangible property of a ***participant in the legal process***[~~witness~~] or a person he ***or she*** believes may be called as a ***participant in the legal process***[~~witness~~] in any official proceeding ***or because the person has participated in a legal proceeding***[~~for the witness's~~]:

(a) Attending an official proceeding, or giving or producing any testimony, record, document, or other object produced at that proceeding;[~~ or~~]

(b) Giving information to a law enforcement officer relating to the possible commission of an offense or a violation of conditions of probation, parole, or release pending judicial proceedings***;***

(c) Vote, decision, opinion, or other action;

(d) Performance of his or her duty; or

(e) To intimidate the participant.

(2) ***For purposes of this section:***

(a) An official proceeding need not be pending or about to be instituted at the time of the offense; and

(b) The testimony, record, document or other object need not be admissible in evidence or free of a claim of privilege.

(3) Retaliating against a ***participant in the legal process***[~~witness~~] is a Class D felony.

Section 4. KRS 524.050 is amended to read as follows:

(1) A person is guilty of tampering with a witness when, knowing that a person is or may be called as a witness in an official proceeding, he:

(a) Induces or attempts to induce the witness to absent himself or otherwise avoid appearing or testifying at the official proceeding with intent to influence the outcome thereby; or

(b) Knowingly makes any false statement or practices any fraud or deceit with intent to affect the testimony of the witness.

(2) Tampering with a witness is a Class ***D felony***[~~A misdemeanor~~].

Section 5. KRS 524.090 is amended to read as follows:

(1) A person is guilty of jury tampering when, with intent to influence a juror's vote, opinion, decision or other action in a case, he communicates or attempts to communicate, directly or indirectly, with a juror other than as a part of the proceedings in the trial of the case.

(2) Jury tampering is a Class ***D felony***[~~A misdemeanor~~].

Section 6. The following KRS sections are repealed:

524.045 Harassing a witness.

524.080 Intimidating a juror.

524.120 Intimidating a judicial officer.

HB 610, AN ACT relating to kidnapping.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 532.025 is amended to read as follows:

(1) (a) Upon conviction of a defendant in cases where the death penalty may be imposed, a hearing shall be conducted. In such hearing, the judge shall hear additional evidence in extenuation, mitigation, and aggravation of punishment, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant, or the absence of any prior conviction and pleas; provided, however, that only such evidence in aggravation as the state has made known to the defendant prior to his trial shall be admissible. Subject to the Kentucky Rules of Evidence, juvenile court records of adjudications of guilt of a child for an offense that would be a felony if committed by an adult shall be admissible in court at any time the child is tried as an adult, or after the child becomes an adult, at any subsequent criminal trial relating to that same person. Juvenile court records made available pursuant to this section may be used for impeachment purposes during a criminal trial and may be used during the sentencing phase of a criminal trial; however, the fact that a juvenile has been adjudicated delinquent of an offense that would be a felony if the child had been an adult shall not be used in finding the child to be a persistent felony offender based upon that adjudication. Release of the child's treatment, medical, mental, or

psychological records is prohibited unless presented as evidence in Circuit Court. Release of any records resulting from the child's prior abuse and neglect under Title IV-E or IV-B of the Federal Social Security Act is also prohibited. The judge shall also hear argument by the defendant or his counsel and the prosecuting attorney, as provided by law, regarding the punishment to be imposed. The prosecuting attorney shall open and the defendant shall conclude the argument. In cases in which the death penalty may be imposed, the judge when sitting without a jury shall follow the additional procedure provided in subsection (2) of this section. Upon the conclusion of the evidence and arguments, the judge shall impose the sentence or shall recess the trial for the purpose of taking the sentence within the limits prescribed by law. If the trial court is reversed on appeal because of error only in the presentence hearing, the new trial which may be ordered shall apply only to the issue of punishment;

(b) In all cases in which the death penalty may be imposed and which are tried by a jury, upon a return of a verdict of guilty by the jury, the court shall resume the trial and conduct a presentence hearing before the jury. Such hearing shall be conducted in the same manner as presentence hearings conducted before the judge as provided in paragraph (a) of this subsection, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant. Upon the conclusion of the evidence and arguments, the judge shall give the jury appropriate instructions, and the jury shall retire to determine whether any mitigating or aggravating circumstances, as defined in subsection (2) of this section, exist and to recommend a sentence for the defendant. Upon the findings of the jury, the judge shall fix a sentence within the limits prescribed by law.

(2) In all cases of offenses for which the death penalty may be authorized, the judge shall consider, or he shall include in his instructions to the jury for it to consider, any mitigating circumstances or aggravating circumstances otherwise authorized by law and any of the following statutory aggravating or mitigating circumstances which may be supported by the evidence:

(a) Aggravating circumstances:

1. The offense of murder or kidnapping was committed by a person with a prior record of conviction for a capital offense, or the offense of murder was committed by a person who has a substantial history of serious assaultive criminal convictions;
2. The offense of murder or kidnapping was committed while the offender was ***either*** engaged in the commission of arson in the first degree, robbery in the first degree, burglary in the first degree, rape in the first degree, or sodomy in the first degree ***or engaged in the course of committing both murder and kidnapping***;
3. The offender by his act of murder, armed robbery, or kidnapping knowingly created a great risk of death to more than one (1) person in a public place by means of a weapon of mass destruction, weapon, or other device which would normally be hazardous to the lives of more than one (1) person;
4. The offender committed the offense of murder for himself or another, for the purpose of receiving money or any other thing of monetary value, or for other profit;
5. The offense of murder was committed by a person who was a prisoner and the victim was a prison employee engaged at the time of the act in the performance of his duties;
6. The offender's act or acts of killing were intentional and resulted in multiple deaths;
7. The offender's act of killing was intentional and the victim was a state or local public official or police officer, sheriff, or deputy sheriff engaged at the time of the act in the lawful performance of his duties; and
8. The offender murdered the victim when an emergency protective order or a domestic violence order was in effect, or when any other order designed to protect the victim from the offender, such as an order issued as a condition of a bond, conditional release, probation, parole, or pretrial diversion, was in effect.

(b) Mitigating circumstances:

1. The defendant has no significant history of prior criminal activity;
2. The capital offense was committed while the defendant was under the influence of extreme mental or emotional disturbance even though the influence of extreme mental or emotional disturbance is not sufficient to constitute a defense to the crime;
3. The victim was a participant in the defendant's criminal conduct or consented to the criminal act;
4. The capital offense was committed under circumstances which the defendant believed to provide a moral justification or extenuation for his conduct even though the circumstances which the defendant believed to provide a moral justification or extenuation for his conduct are not sufficient to constitute a defense to the crime;
5. The defendant was an accomplice in a capital offense committed by another person and his participation in the capital offense was relatively minor;
6. The defendant acted under duress or under the domination of another person even though the duress or the domination of another person is not sufficient to constitute a defense to the crime;
7. At the time of the capital offense, the capacity of the defendant to appreciate the criminality of his conduct

to the requirements of law was impaired as a result of mental illness or retardation or intoxication even though the impairment of the capacity of the defendant to appreciate the criminality of his conduct or to conform the conduct to the requirements of law is insufficient to constitute a defense to the crime; and

8. The youth of the defendant at the time of the crime.

(3) The instructions as determined by the trial judge to be warranted by the evidence or as required by KRS 532.030(4) shall be given in charge and in writing to the jury for its deliberation. The jury, if its verdict be a recommendation of death, or imprisonment for life without benefit of probation or parole, or imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall designate in writing, signed by the foreman of the jury, the aggravating circumstance or circumstances which it found beyond a reasonable doubt. In nonjury cases, the judge shall make such designation. In all cases unless at least one (1) of the statutory aggravating circumstances enumerated in subsection (2) of this section is so found, the death penalty, or imprisonment for life without benefit of probation or parole, or the sentence to imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall not be imposed.

Calendar

HB 705, HB 583, HB 613, HB 672, HB 720, HCR 162, HB 625, HB 631, HB 730, HB 715, HB 232, HB 714, HB 727, SB 14, and **SB 149** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report of Committees (Continued)

Representative Stumbo moved to suspend the rules to allow for a Rules Committee Report. Agreed.

The Committee on Rules reported that **HB 100, HB 319, HB 471, HB 478, HB 521, HB 586, HB 602, HB 615, HB 654, HB 673, HB 590, HB 727,** and **HB 730** have been posted for passage in the Orders of the Day for February 28, 2002.

Orders of the Day

HB 165, with Committee Substitute, Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved the adoption of the Committee Substitute to **HB 165**. Agreed.

Representative Riggs moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 165**. Agreed.

Representative Riggs moved that **HB 165**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 27, 2002, roll call on **HB 165** - Appendix.)

HB 165, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Riggs moved that the vote by which **HB 165**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 576, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of Committee Amendment No. 1 to **HB 576**. Agreed.

Representative Thomas moved the adoption of Floor Amendment No. 1 to **HB 576**. Agreed.

Representative Thomas moved the adoption of Floor Amendment No. 2 to **HB 576**. Agreed.

Representative Thomas moved the adoption of Floor Amendment No. 3 to **HB 576**. Agreed.

Representative Thomas moved that **HB 576**, as amended, be passed.

Representative Thomas moved that **HB 576**, as amended, be laid on the Clerk's Desk. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 199, HB 286,** and **HB 308** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 3:20 p.m.)

Orders of the Day (Continued)

HB 617, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of Floor Amendment No. 3 to **HB 617**. Agreed.

Representative Damron moved that **HB 617**, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 27, 2002, roll call on **HB 617** - Appendix.)

HB 617, as amended, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 617**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 487, with Committee Substitutes and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved the adoption of the Committee Substitute No. 2 to **HB 487**. Agreed.

Representative Barrows moved the adoption of Floor Amendment No. 1 to the Committee Substitute No. 2 to **HB 487**. Agreed.

Representative Stein moved that **HB 487**, by way of Committee Substitute No. 2, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 27, 2002, roll call on **HB 487** - Appendix.)

HB 487, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Stein moved that the vote by which **HB 487**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 593, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved the adoption of the Committee Substitute to **HB 593**. Agreed.

Representative Marzian moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 593**. Agreed.

Representative Adkins moved that **HB 593**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 27, 2002, roll call on **HB 593** - Appendix.)

HB 593, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Adkins moved that the vote by which **HB 593**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 199, HB 286,** and **HB 308** were delivered to the Senate and signed by the President. Delivered to the Governor on February 27, 2002, at 3:35 p.m.

Orders of the Day (Continued)

HB 653, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved the adoption of the Committee Substitute to **HB 653**. Agreed.

Representative Stacy moved that **HB 653**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 27, 2002, roll call on **HB 653** - Appendix.)

HB 653, by way of Committee Substitute, was passed and the title agreed to.

Representative Stacy moved that the vote by which **HB 653**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 56 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved that **HCR 56** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 27, 2002, roll call on **HCR 56** - Appendix.)

HCR 56 was adopted.

Representative Rasche moved that the vote by which **HCR 56** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 222 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved that **HB 222** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 27, 2002, roll call on **HB 222** - Appendix.)

HB 222 was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 222** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 249 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 249** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 27, 2002, roll call on **HB 249** - Appendix.)

HB 249 was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 249** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 535, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crimm moved that **HB 535**, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 27, 2002, roll call on **HB 535** - Appendix.)

HB 535, was passed and the title agreed to.

Representative Heleringer asked that the Journal note his abstention from voting on **HB 535**, in accordance with Section 57 of the Kentucky Constitution.

Representative J. Turner asked that the Journal note his abstention from voting on **HB 535**, in accordance with Section 57 of the Kentucky Constitution.

Representative Crimm moved that the vote by which **HB 535**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 611 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved that **HB 611** be passed.

On the roll call the vote was: **Yeas 66, Nays 32**. (See February 27, 2002, roll call on **HB 611** - Appendix.)

HB 611 was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 611** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 94 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crimm moved that **HJR 94** be adopted.

On the roll call the vote was: **Yeas 84, Nays 9**. (See February 27, 2002, roll call on **HJR 94** - Appendix.)

HJR 94 was adopted.

Representative Crimm moved that the vote by which **HJR 94** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 180 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved that **HB 180** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 27, 2002, roll call on **HB 180** - Appendix.)

HB 180 was passed and the title agreed to.

Representative Cherry moved that the vote by which **HB 180** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 289 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Clark moved that **HB 289** be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See February 27, 2002, roll call on **HB 289** - Appendix.)

HB 289 was passed and the title agreed to.

Representative P. Clark moved that the vote by which **HB 289** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 648, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved that **HB 648**, be passed.

On the roll call the vote was: **Yeas 92, Nays 5**. (See February 27, 2002, roll call on **HB 648** - Appendix.)

HB 648, was passed.

Representative Graham moved the adoption of Committee Amendment No. 1 Title to **HB 648**. Agreed.

Representative Graham moved that the vote by which **HB 648**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved to waive the posting requirement on **SB 128**. Agreed.

Representative Stumbo moved that **HB 777** be reassigned to the Committee on Transportation. Agreed

Representative Stumbo moved that **HCR 184** be reassigned to the Committee on State Government. Agreed.

Representative Stumbo moved that **SB 68** be recommitted to the Committee on State Government. Agreed.

Representative Stumbo moved that the rules be suspended for Introductions of Bills and Report of Committees. Agreed.

Introduction of Bills and Resolution (Continued)

HB 788, by Representative Stacy: AN ACT relating to driving under the influence.

HB 789, by Representatives Westrom and Stumbo: AN ACT relating to state gambling revenue.

HB 790, by Representative Gooch: AN ACT relating to electric utilities.

HB 791, by Representative Geveden: AN ACT relating to reorganization.

HB 792, by Representative Gooch: AN ACT relating to mining.

HB 793, by Representative Gooch: AN ACT relating to mining safety.

HB 794, by Representative Bather: AN ACT relating to revenue and taxation and declaring an emergency.

HB 795, by Representative J. Turner: AN ACT relating to occupations and professions.

HB 796, by Representative Fischer: AN ACT relating to structured settlements.

HB 797, by Representative Barrows: AN ACT relating to tax credits for land conservation and preservation.

HB 798, by Representatives Childers, Smith, Cornett, and Hall: AN ACT relating to water quality certifications.

HCR 197, by Representative Fischer: A CONCURRENT RESOLUTION directing the Interim Joint Committee on Education to study issues related to school finance.

HR 198, by Representatives Bather and Crenshaw: A RESOLUTION declaring February 28, 2002, as Kentucky African-American Heritage Commission Day and recognizing the 2002 African-American Heritage Forum.

HCR 199, by Representatives Palumbo, L. Clark, Stacy, Marizan, Jenkins, Stein, DeWeese, Stewart, Westrom, Pullin, Heleringer, Crall, Rasche, L. Belcher, Dw. Butler, Siler, Miller, Yonts, Burch, Gooch, Buckingham, Vincent, Riggs, Adkins, Walton, Webb, Damron, Horlander, C. Belcher, S. Lee, Barrows, De. Butler, Geveden, Feeley, Cherry : A CONCURRENT RESOLUTION directing a study of the Kentucky Enterprise Zone Program.

HR 200, by Representative Graham: A RESOLUTION adjourning the House of Representatives in honor of Millie "MeMe" Combs.

HR 201, by Representative Upchurch: A RESOLUTION memorializing Dr. Thomas D. Myers.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Natural Resources: **HB 708, HB 738, HB 745**

Judiciary: **HB 385, SB 170**

The Clerk announced that the following Bill has been withdrawn from posting for Committee consideration:

Judiciary: **HB 155**

Motions, Petitions, and Communications (Continued)

Representative J. Arnold moved the adoption of the following **Legislative Citation No. 69**.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in reverent memory of Ethel Certain and to respectfully join with Representative John A. Arnold, Jr., in expressing its deepest sympathy to the Certain Family and to all who share in the loss of this remarkable lady, the beloved wife of the late Henry Wilbert Certain; cherished mother of Joyce Price, Sherrie Williams, Garland Certain, Harold Certain, and the late Joan Certain; adored grandmother of eleven and great-grandmother of eighteen. Ethel Certain, a faithful member of the Sturgis Church of Christ, will long be remembered for the many contributions she made to her family, friends and community and will be deeply missed by all those whose lives were touched by her remarkable presence. Done in Frankfort, Kentucky, this twenty-seventh day of February, in the year two thousand and two.

Legislative Citation No. 69 was adopted without objection.

Representative Childers moved the adoption of the following **Legislative Citation No. 70**.

The House of Representatives of the Commonwealth of Kentucky hereby extends its sincerest condolences and genuine expressions of sympathy for the grievous death of Dale Niswonger For inasmuch as death, like life, is a gift from God, it is inevitable that this honoree is destined to sit at the foot of the cross for his exceptional contributions to humanity throughout his life, serving as the director of the Franklin County Senior Citizens Center, encouraging individuals to be their best through his well attended motivational speeches; he was an educator and a minister of God's word. Therefore, Dale Niswonger has surely earned a jewel in his sacred crown for the honorable manner in which he lead his life. Let it be known that this prestigious body doth hereby recognize the gentleman as a special person who made a real difference in his community and the Commonwealth. Members of the Kentucky House of Representatives reach out to the Niswonger family, his wife Mary Bell, and his daughter, offering heartfelt condolences and adjourning the House, February 27, 2002, in memory of Dale Niswonger. Done in Frankfort, Kentucky, this twenty-seventh day of February, in the year two thousand and two.

Legislative Citation No. 70 was adopted without objection.

Representative Upchurch moved to suspend the rules to act on a resolution.

Representative Upchurch moved the adoption of the following **HR 201**:

HR 201, A RESOLUTION memorializing Dr. Thomas D. Myers.

WHEREAS, Dr. Thomas D. Myers was a longtime resident of Richmond, Kentucky; and

WHEREAS, Dr. Thomas D. Myers dedicated his career to educating the students at Eastern Kentucky University; and

WHEREAS, Dr. Thomas D. Myers first came to Eastern Kentucky University in 1964 as the Chairperson for Health Education and was later given the task for developing the first College of Allied Health; and

WHEREAS, Dr. Thomas D. Myers became the Vice President of Student Affairs and the Dean of Students in 1969 and maintained the responsibilities of both positions until 2000; and

WHEREAS, Dr. Thomas D. Myers never lost the love of teaching, and was able to return to that role as tenured full professor for two years after his term of service as Vice President of Student Affairs and the Dean of Students; and

WHEREAS, Dr. Thomas D. Myers, in his time at Eastern Kentucky University, created or expanded the student service areas of health, counseling, minority affairs, and disability issues; and

WHEREAS, Dr. Thomas D. Myers served his community as president of the United Way of Madison County, president of the Bluegrass Council of Boy Scouts, and as an active member of the Episcopal Church, and served his country through many avenues abroad; and

WHEREAS, Dr. Thomas D. Myers was a recipient of the Royal Order of Scotland, and the Knights Cross of Honor for

Public Service, among many other awards and distinctions; and

WHEREAS, because of his genuine care and concern for his students, Dr. Thomas D. Myers was loved and respected by countless students, both present and former; and

WHEREAS, because of this genuine care and concern, and through his serving as a friend and mentor to students and others, Dr. Thomas D. Myers was lovingly called "Doc" and "Papa Bear"; and

WHEREAS, Dr. Thomas D. Myers not only filled the role of professor, administrator, friend, and mentor; but also filled the role of loving husband to his wife, Bettye Myers; dedicated father to Pauline Elizabeth Helm, and Amy Johnson; step-father to Laura Smiley; and devoted grandfather and brother; and

WHEREAS, Dr. Thomas D. Myers died on February 23, 2002;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby honor the memory of Dr. Thomas D. Myers for his commitment to the citizens of the Commonwealth through his many roles as educator, administrator, and civic leader, and holds his service as a shining example of the good that can be accomplished in this world.

Section 2. The House of Representatives affirms that the loss of Dr. Thomas D. Myers will affect all the lives of the people whom he has touched and offers its condolences to his family, friends, and the citizens of Richmond and the Commonwealth who will miss him.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mrs. Bettye Myers, 750 Whitlock Road, Richmond, Kentucky 40475.

There being no objection **HR 201** was adopted.

Representative McKee moved the adoption of the following **HR 190**:

HR 190, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Wilson Palmer, our colleague and friend.

With deepest respect and admiration, we pay homage and tribute to Wilson Palmer, our colleague and friend, and we pause in silent reverence for his soul.

WHEREAS, Wilson Palmer was born on May 9, 1917, a native of Harrison County, Kentucky, and he traversed these earthly bounds on February 19, 2002; and

WHEREAS, Wilson Palmer was the loving son of the late Edgar and Clara Florence Palmer, he was the devoted husband of the late Jean Marsh Palmer, and he was the loving brother of Frank Palmer and Lowell Palmer, who also preceded him in passing; he was the loving father of five daughters and sons-in-law, Jane and Jerry Lockwood of Jamestown, New York, Joan and Dave Wilson of Brandenburg, and Patsy and Doug Hampton, Susan and Roy Kitchen, and Mary Catherine and Steve Carroll, all of Harrison County; he was the proud grandfather of fourteen grandchildren and sixteen great-grandchildren, and he was the loving brother of two sisters, Amanda Moorehead of Marietta, Georgia, and Clara A. Gering of Louisville; and

WHEREAS, Wilson Palmer was a loyal Democrat who served his constituents from the 30th Senatorial District with pride and honor from 1961 to 1973, while representing Harrison, Nicholas, Robertson, Pendleton, Grant, and Bracken Counties, and during his tenure with the General Assembly, he ably served as chairman of the Senate Committee on State Government and co-chairman of the Interim Joint Committee on State Government; and

WHEREAS, Wilson Palmer was an esteemed member of the Harrison County community where he was a devout member and former deacon of the Republican Christian Church; he was a retired tobacco and cattle farmer and a previous realtor and insurance agent with the Palmer-Hampton Agency in Cynthiana; he was a former director of National Bank of Cynthiana, former director and past president of Harrison Electric Cooperative, former member of the Eastern Kentucky University Board of Regents, former Harrison Memorial Hospital board of directors member, former member of the East Kentucky Power Cooperative board of directors, and a former member of the Kentucky Farm Bureau; and

WHEREAS, when this honorable body reflects upon the memory of Wilson Palmer, it is with fond recollection that we remember him not only for his many legislative accomplishments and the friendships he made and sustained through the years, but also for his compassion for and understanding of the common man, which he demonstrated daily; and

WHEREAS, the passing of Wilson Palmer has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its utter sense of bereavement upon the passing of Wilson Palmer, and extends to his family and many friends its most profound and deepest sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Wilson

Palmer, our friend and colleague.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Patsy Hampton, 3346 Kentucky Highway 392, Cynthiana, Kentucky 41031.

There being no objection **HR 190** was adopted.

Representative Pullin moved that Floor Amendment No. 1 to the Committee Substitute to **HB 602** be withdrawn. Agreed.

Representative Geveden moved that the rules be suspended for the purpose of recording votes Agreed.

Representative Geveden moved that he be recorded as voting "yea" on **HB 193, HB 77, HB 296, HB 589, HB 523,** and **HB 194**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 3 to Committee Substitute No. 2 to **HB 188**, by Representative Wayne:

On page 3, line 21, after the words "*utility bill,*", by inserting the words "*letter from a homeless shelter or community service provider,*"; and

On page 6, line 26, after the words "*utility bill,*", by inserting the words "*letter from a homeless shelter or community service provider,*"; and

On page 10, lines 11 through 17, by deleting all new language and removing all brackets and strikethroughs.

Floor Amendment No. 2 to the Committee Substitute to **HB 129**, by Representative Cherry:

On page 3, between lines 4 and 5, by inserting the following language.

"*(d) Upon issuance or renewal of any emergency declaration, the Division of Emergency Management shall cause the retail business community to be notified of the emergency situation through the use of all media resources available to the division. Such notification may include, but not be limited to, the use of electronic mail technology, use of the conventional news media, and posting of the emergency declaration and related information on web sites as determined to be appropriate by the division.*"

On page 3, line 6, after the word "*section*", by inserting the following language; "*, except that any action taken for a violation of this section shall be initiated within one hundred eighty (180) days of the termination of the emergency declaration*".

Floor Amendment No. 7 to the Committee Substitute to **HB 481**, by Representative C. Belcher:

On page 64, line 18, by deleting "*Subtitles 1 and 2*" and inserting in lieu thereof "*Subtitle 1*"; and

On page 64, line 20, after "*subtitle.*" by adding "*The applicability of Subtitle 1 of this chapter to liability self-insurance groups shall not be interpreted to allow any other provision of this chapter to apply to liability self-insurance groups except as set forth in this subtitle.*"; and

On page 64, lines 24 and 25 by deleting "*, and Subtitle 2 of this chapter for determining financial condition, market conduct, and business practices*".

Floor Amendment No. 2 to **HB 521**, by Representative Nelson:

After line 20, insert the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) A county acting under authority of this section may by ordinance create a county cemetery board that may apply to the Department for Local Government for grants to restore and maintain nonprofit cemeteries that do not receive perpetual care funds pursuant to KRS 367.962.

(2) The county cemetery boards shall meet three (3) times annually in space provided by the fiscal court and shall have five (5) volunteer members with no more than three (3) representing the same political party. Members shall be appointed by the county judge-executive with approval of the fiscal court, shall have lived in the county for at least one (1) year prior to appointment, and shall have demonstrated an interest in cemetery preservation, genealogy, local history, or a related area.

SECTION 4. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) The Department for Local Government shall establish a county cemetery fund to receive appropriations, gifts, grants, federal funds, revolving funds, and any other funds from public and private sources.

(a) Moneys deposited in the fund shall be disbursed by the State Treasurer and any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9).

(b) Income earned from investment including unalloted or unencumbered balances in the fund shall not lapse, shall be returned to the Department for Local Government, and may be redistributed to other counties.

(2) The Department for Local Government shall promulgate administrative regulations related to responsibilities of the boards, grant appropriation amounts and eligible expenditures, application and reporting procedures, accountability criteria for grant recipients, and other issues of importance to the board's operation.".

Floor Amendment No. 2 to the Committee Substitute to **HB 367**, by Representative Barrows:

On page 1, line 9, after "*program.*" by inserting "*The confidentiality given under this section shall not preclude disclosure of an agriculture operation's agriculture water quality plan to the Agriculture Water Quality Authority pursuant to a request by the authority for the purpose of the authority carrying out its statutory duties.*"

Floor Amendment No. 1 to **HB 654**, by Representative Denham:

On page 3, line 18, delete "*and*"; and in between lines 19 and 20, insert the following:

"*(h) East Kentucky Corporation;*

(i) Southern and Eastern Kentucky Tourism Development Association;

(j) Licking River Valley Resource Conservation and Development Council; and

(k) Buffalo Trace Covered Bridge Authority;"; and

On page 3, lines 24 and 25, after the word "*of*", insert "*agriculture or*"; delete "*agribusiness*" and insert "*agritourism*" in lieu thereof; and delete "*with a business interest in agritourism*"; and

On page 4, line 21, after the word "*members*", insert "*present*"; and

On page 5, between lines 3 and 4 , insert the following section:

"Section 7. For the nine members of the Agritourism Advisory Council representing the agriculture or agritourism industry, initial appointments shall be made so that three members are appointed for two years, three members are appointed for three years, and three members are appointed for four years."; and

Renumber subsequent section accordingly.

Floor Amendment No. 3 to the Committee Substitute to **HB 602**, by Representative Pullin:

On page 57, between lines 9 and 10, by inserting:

"*For an eligible company, within a regional industrial park which lies within two (2) or more counties, the calculation of the wage and benefit requirement shall be determined by averaging the average county hourly wage for all counties within the regional industrial park.*"

Floor Amendment No. 2 to the Committee Substitute to **HB 586**, by Representative Hoover:

On page 10, at line 10, by deleting the word "*and*" and inserting "*but*" in lieu thereof; and

On page 10, at line 10, by deleting the word "*then*" and inserting "*not*" in lieu thereof; and

On page 10, at line 21, by deleting the word "*and*" and inserting ""*but*" in lieu thereof; and

On page 10, at line 21, by deleting the word ""*then*" and inserting "*not*" in lieu thereof.

Floor Amendment No. 3 to the Committee Substitute to **HB 586**, by Representative Hoover:

On page 7, at line 11, by deleting the word "*received*"; and

On page 7, at line 12, by deleting the words "*from the personal moneys of a member of a slate of candidates*"; and

On page 7, at line 13, by deleting the words "*that may be*" and

On page 7, at line 14, by deleting all language therein; and

On page 7, at line 15, by deleting the word "*candidates*".

Floor Amendment No. 1 to **HB 39**, by Representative DeWeese:

On page 1, line 3, after "***Act***" by inserting "***that provide coverage for general anesthesia and hospitalization services to a covered person***".

Floor Amendment No. 2 to **HB 39**, by Representative DeWeese:

On page 1, line 8, by deleting "***provider***" and inserting in lieu thereof "***physician licensed under KRS Chapter 311***".

Floor Amendment No. 3 to **HB 39**, by Representative DeWeese:

On page 1, line 8, by deleting "***provider***" and inserting in lieu thereof "***dentist***"; and
On page 1, line 8, after "***patient***" by inserting "***or admitting physician***".

Floor Amendment No. 4 to **HB 39**, by Representative DeWeese:

On page 1, line 10, after "***procedures.***" by inserting "***This section does not require coverage for routine dental care, including the diagnosis or treatment of disease or other dental conditions and procedures not covered in this section.***".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 553, Representative Napier

HB 562, Representative Stewart

HB 652, Representative McKee

HB 667, Representative Meeks

HB 678, Representative Comer

HB 679, Representative Crimm

HB 704, Representative Stewart

HB 706, Representative Stewart

HR 199, Representatives Bowling, Bratcher, Brinkman, Callahan, Childers, Crenshaw, Draud, Ford, Gray, Hoover, Hoffman, Kerr, Meeks, Nesler, Stumbo, and Tapp

The following member filed a request to have his name withdrawn as co-sponsor for the following Bill:

HB 516, Representative Nelson.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., on Thursday, February 28, 2002.

The motion that the House adjourn until 2:00 p.m., on Thursday, February 28, 2002, was adopted by voice vote.

THURSDAY, FEBRUARY 28, 2002

THIRTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend David Hinson, First Baptist Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present Representatives J. Arnold and Walton.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Wednesday, February 27, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 13, SB 80, SB 88, SB 99, SB 111, SB 130, SB 133, SB 159, SB 192, SB 176, SCR 76, HB 325, HB 386, HCR 70,** and **HCR 71**.

Message received in regard to **HB 330**: The Senate has passed **HB 330** with the following Senate Committee Amendment No. 1, and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 353**: The Senate has passed **HB 353** with the following Senate Committee Amendment No. 1, and respectfully requests concurrence of this Honorable Body. (Time: 2:10 p.m.)

Introduction of Bills and Resolutions

HR 202, by Representative Meeks: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Goldie Savannah White.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SB 179**

Appropriations and Revenue: **HB 787, 789, 794, 797**

Banking and Insurance: **HB 785, 786**

Economic Development: **HCR 199**

Education: **HCR 197**

Judiciary: **HB 784, 788, 796**

Labor and Industry: **HB 782**

Licensing and Occupations: **SB 139**

Local Government: **HB 783, SB 101**

Natural Resources and Environment: **HB 792, 793, 798**

Seniors, Military Affairs and Public Safety: **HB 795**

State Government: **HB 791, HR 196**

Tourism Development and Energy: **HB 790**

House Floor: **HR 195, 198, 200**

Report of Committees

The Committee on Rules reported that **HB 554, HB 644, SB 26, SB 70,** and **SB 117** have been posted for passage in the Orders of the Day for March 1, 2002.

The Committee on Health and Welfare reported **HB 467,** with Committee Substitute attached thereto, **HB 693,** with Committee Substitute attached thereto, **HB 731,** with Committee Substitute attached thereto, **HJR 148,** with Committee Substitute and Committee Amendment attached thereto, **SB 2,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 467, AN ACT relating to dental hygienists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 313.310 is amended to read as follows:

(1) No person shall practice dental hygiene nor hold himself out as a dental hygienist without a license issued by the board~~[, and unless he is an employee of a licensed and practicing dentist in this state and is under the continuous supervision and inspection of such dentist, provided that the board, in its discretion, may grant permission for the employment of a dental hygienist by any organization]~~.

(2) A licensed dental hygienist shall practice under the supervision, order, control, and full responsibility of a dentist licensed under this chapter and may practice in a dental office, public or private school, health care facility, or government institution with a dentist on staff except as provided in administrative regulations promulgated pursuant to subsections (3), (4), and (5) of this section.

(3) A dental hygienist may provide, for not more than fifteen (15) consecutive full business days, dental hygiene services to a patient when the supervising dentist is not physically present at the location at which the services are provided if all the following requirements are met:

(a) The dental hygienist shall have at least two (2) years with a minimum of three thousand (3,000) hours of experience in the practice of dental hygiene;

(b) The dental hygienist shall have successfully completed a course approved by the board in the identification and prevention of potential medical emergencies with recertification in this course every two (2) years;

(c) The dental hygienist shall comply with written protocols for emergencies the supervising dentist establishes;

(d) The board shall promulgate administrative regulations to determine procedures the dental hygienist shall not be allowed to perform while the supervising dentist is absent from the work site; and

(e) The dental hygienist shall not examine or provide dental health services to a patient who has not been examined by the supervising dentist within the previous seven (7) months. The supervising dentist shall have completed and evaluated a medical and dental history of the patient and shall have placed a written order for treatment in the patient's file. The board shall promulgate administrative regulations to determine guidelines for the written order.

(4) (a) A practicing dentist may not have in his employ ***and under his supervision*** more than the equivalent of two (2) full-time dental hygienists. The license for each dental hygienist shall be continuously displayed in a conspicuous place in the office of the licensee.

(b) The supervising dentist shall evaluate and provide to the board written validation of an employed dental hygienist's skills.

(c) The supervising dentist shall establish a written office protocol clearly defining all guidelines, including one addressing medically compromised patients, when the treatment by the hygienist is permitted and when the patient needs to be seen exclusively by the dentist. The minimum requirements of the written protocol shall be promulgated in administrative regulations established by the board.

(d) A patient shall be notified three (3) business days in advance of an appointment for dental hygiene services when the supervising dentist will be absent from the location. The patient shall be required to sign an informed consent form, prior to treatment by the hygienist, acknowledging the dentist's absence.

(5) The dental hygienist may provide dental hygiene services to a patient when the supervising dentist is not physically present at the location at which the services are provided if the services are provided as part of a dental health program that is approved by the board and meets all of the following requirements:

(a) The program is operated through a school district board of education or the governing board of an educational service center; the board of health of a city or general health district or the authority having the duties of a board of health under KRS 212.245; a national, state, district, or local dental association; or any other public or private entity recognized by the board;

(b) The supervising dentist is employed by or is a volunteer for the entity through which the program is operated and through which the patients are referred; and

(c) The services are performed after examination and diagnosis by the dentist and in accordance with the dentist's written treatment plan.

(6) A dental hygienist may be employed by the supervising dentist or under contract with a dentist licensed under this chapter who is one (1) of the following:

(a) The employer of the supervising dentist;

(b) A shareholder in a professional association formed under KRS 274.015 of which the supervising dentist is a shareholder;

(c) A member or manager of a limited liability company formed under KRS 275.005 of which the supervising dentist is a member or manager;

(d) A shareholder in a corporation formed under KRS Chapter 271B of which the supervising dentist is a shareholder;

(e) A partner or employee of a partnership or a registered limited liability partnership formed under KRS 362.555 of which the supervising dentist is a partner or employee; or

(f) A government entity that employs the dental hygienist to provide dental hygiene services in a public school in connection with other programs the government entity administers.

(7) It shall be unlawful for a person or corporation to practice dental hygiene in a manner that is separate or independent from the dental practice of a supervising dentist or to establish or maintain an office or practice that is primarily devoted to the provision of dental hygiene services.

(8) For purposes of determining whether or not a dental hygienist has met the experience requirements specified in subsection (3)(a) of this section, all experience that the dental hygienist obtained prior to the effective date of Sections 1 to 3 of this Act shall be counted.

SECTION 2. A NEW SECTION OF KRS 313.259 TO 313.350 IS CREATED TO READ AS FOLLOWS:

(1) A licensed dentist may delegate to a licensed dental hygienist the administration of block and infiltration anesthesia and nitrous oxide analgesia under the direct supervision of a dentist if the dental hygienist completes the following requirements and receives a certificate of verification from the board:

(a) Formal training from a dental or dental hygiene school accredited by the Council on Dental Accreditation;

(b) A minimum of thirty-two (32) hours covering all of the following topics, including but not limited to anatomical considerations, basic injunction technique, basic placement technique, nitrous oxide administration, record keeping, armamentarium exercise, local anesthesia and nitrous oxide, techniques of maxillary anesthesia, techniques of mandibular injections, partner injections and partner administration of nitrous oxide, neurophysiology, pharmacology of local anesthetics and nitrous oxide, pharmacology of vasoconstrictors, physical and psychological evaluation, local and systemic complications, and contraindications;

(c) A minimum of two (2) hours of clinical education for nitrous oxide administration with successful completion of administration, monitoring, and removal of nitrous oxide on at least two (2) patients;

(d) A minimum of twelve (12) hours demonstrating mastery of local anesthesia applications and successful completion of at least three (3) injections each of all maxillary and mandibular injection sites; and

(e) A score that exceeds seventy-four percent (74%) on a written examination administered after coursework and clinical training.

(2) The board shall serve as administrator of this certification and shall require dental hygienists to pay a fee not to exceed one hundred dollars ($100) for certification.

(3) The board shall approve all continuing education courses and require them for individuals holding anesthesia certification for over one (1) year without practical application. The courses shall be developed and implemented by dental education institutions accredited by the Council on Dental Accreditation.

SECTION 3. A NEW SECTION OF KRS 313.259 TO 313.350 IS CREATED TO READ AS FOLLOWS:

(1) The board shall promulgate administrative regulations to define certification requirements, duties, training, and standards of practice that may be performed by a certified dental assistant who has successfully passed the Dental Assisting National Board and who can document at least (1) year of dental office experience. The board shall also promulgate administrative regulations to define certification requirements, duties, training, and standards of practice that may be performed by an expanded duties dental assistant who has completed an expanded functions dental auxiliary course at a dental institution accredited by the Council on Dental Accreditation and who can document at least one (1) year of dental office experience.

(2) The board shall approve the instructor and the courses of study for approving duties, training, and standards of practice that may be performed by a certified dental assistant and expanded duties dental assistant and shall authorize the course instructor to issue certificates, under the board's direction, to those who successfully complete the requirements.

(3) A certified dental assistant and expanded duties dental assistant shall practice under the supervision, order, control,

and full responsibility of a dentist licensed under this chapter.

(4) A practicing dentist may not have in his employ and under his supervision more than the equivalent of two (2) full-time certified dental assistants or expanded duties dental assistants. The certificate for each certified dental assistant and expanded duties dental assistant shall be continuously displayed in a conspicuous place in the office of the licensee.

(5) Supervising dentists shall only assign to certified dental assistants and expanded duties dental assistants procedures that do not require the professional competence of a licensed dentist or a licensed dental hygienist.

(6) Certified dental assistant and expanded duties dental assistant services may include coronal polishing, a cosmetic procedure that is not essential to therapeutic oral prophylaxis, if the following criteria are observed:

- ***(a) Polishing activities are limited to the use of a rubber cap attached to a slow-speed rotary dental handpiece;***
- ***(b) The supervising dentist is not responsible for more than two (2) assistants engaging in polishing activities at any given time;***
- ***(c) The assistant has received a certificate from the board's approved instructor that ensures the following:***
    - ***1. The assistant has successfully completed training in the polishing of clinical crowns through an institution of dental education accredited by the Council on Dental Accreditation; and***
    - ***2. The assistant's training has included but has not been limited to courses in basic dental anatomy and infection control; coronal polishing that included didactic, preclinical, and clinical training; ethics; jurisprudence; and any other training required by the board.***

(7) Certified dental assistant and expanded duties dental assistant services shall not include the following:

- ***(a) The practice of dental hygiene or the performance of the duties of a licensed dental hygienist that require the use of any instrumentation which may elicit the removal of calcareous deposits or accretions on the crowns and roots of teeth;***
- ***(b) Diagnosis;***
- ***(c) Treatment planning and prescription, including prescriptions for drugs or medicaments, or authorization for restorative, prosthodontic, or orthodontic appliances;***
- ***(d) Surgical procedures on hard or soft tissues of the oral cavity, or any other intraoral procedure that contributes to or results in an irreversible alteration of the oral anatomy; and***
- ***(e) The making of final impressions from which casts are made to construct any dental restoration.***

The Committee Substitute to **HB 467** is as follows:

HB 467, AN ACT relating to dental hygienists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 313.310 is amended to read as follows:

(1) No person shall practice dental hygiene nor hold himself out as a dental hygienist without a license issued by the board[~~, and unless he is an employee of a licensed and practicing dentist in this state and is under the continuous supervision and inspection of such dentist, provided that the board, in its discretion, may grant permission for the employment of a dental hygienist by any organization~~].

(2) A licensed dental hygienist shall practice under the supervision, order, control, and full responsibility of a dentist licensed under this chapter and may practice in a dental office, public or private school, health care facility, or government institution with a dentist on staff except as provided in administrative regulations promulgated pursuant to subsections (3), (4), and (5) of this section.

(3) A dental hygienist may provide, for not more than fifteen (15) consecutive full business days, dental hygiene services to a patient when the supervising dentist is not physically present at the location at which the services are provided if all the following requirements are met:

- ***(a) The dental hygienist shall have at least two (2) years with a minimum of three thousand (3,000) hours of experience in the practice of dental hygiene;***
- ***(b) The dental hygienist shall have successfully completed a course approved by the board in the identification and prevention of potential medical emergencies with recertification in this course every two (2) years;***
- ***(c) The dental hygienist shall comply with written protocols for emergencies the supervising dentist establishes;***
- ***(d) The board shall promulgate administrative regulations to determine procedures the dental hygienist shall not be allowed to perform while the supervising dentist is absent from the work site; and***
- ***(e) The dental hygienist shall not examine or provide dental health services to a patient who has not been examined by the supervising dentist within the previous seven (7) months. The supervising dentist shall have completed and evaluated a medical and dental history of the patient and shall have placed a written order for treatment in the patient's file. The board shall promulgate administrative regulations to determine guidelines***

for the written order.

(4) *(a)* ~~[A practicing dentist may not have in his employ more than the equivalent of two (2) full-time dental hygienists.~~]The license for each dental hygienist shall be continuously displayed in a conspicuous place in the office *where*~~[of]~~ the licensee *practices*.

(b) *The supervising dentist shall evaluate and provide to the board written validation of an employed dental hygienist's skills.*

(c) *The supervising dentist shall establish a written office protocol clearly defining all guidelines, including one addressing medically compromised patients, when the treatment by the hygienist is permitted and when the patient needs to be seen exclusively by the dentist. The minimum requirements of the written protocol shall be promulgated in administrative regulations established by the board.*

(d) *A patient shall be notified three (3) business days in advance of an appointment for dental hygiene services when the supervising dentist will be absent from the location. The patient shall be required to sign an informed consent form, prior to treatment by the hygienist, acknowledging the dentist's absence.*

(5) *The dental hygienist may provide dental hygiene services to a patient when the supervising dentist is not physically present at the location at which the services are provided if the services are provided as part of a dental health program that is approved by the board and meets all of the following requirements:*

(a) *The program is operated through a school district board of education or the governing board of an educational service center; the board of health of a city or general health district or the authority having the duties of a board of health under KRS 212.245; a national, state, district, or local dental association; or any other public or private entity recognized by the board;*

(b) *The supervising dentist is employed by or is a volunteer for the entity through which the program is operated and through which the patients are referred; and*

(c) *The services are performed after examination and diagnosis by the dentist and in accordance with the dentist's written treatment plan.*

(6) *A dental hygienist may be employed by the supervising dentist or under contract with a dentist licensed under this chapter who is one (1) of the following:*

(a) *The employer of the supervising dentist;*

(b) *A shareholder in a professional association formed under KRS 274.015 of which the supervising dentist is a shareholder;*

(c) *A member or manager of a limited liability company formed under KRS 275.005 of which the supervising dentist is a member or manager;*

(d) *A shareholder in a corporation formed under KRS Chapter 271B of which the supervising dentist is a shareholder;*

(e) *A partner or employee of a partnership or a registered limited liability partnership formed under KRS 362.555 of which the supervising dentist is a partner or employee; or*

(f) *A government entity that employs the dental hygienist to provide dental hygiene services in a public school in connection with other programs the government entity administers.*

(7) *It shall be unlawful for a person or corporation to practice dental hygiene in a manner that is separate or independent from the dental practice of a supervising dentist or to establish or maintain an office or practice that is primarily devoted to the provision of dental hygiene services.*

(8) *For purposes of determining whether or not a dental hygienist has met the experience requirements specified in subsection (3)(a) of this section, all experience that the dental hygienist obtained prior to the effective date of Sections 1 to 3 of this Act shall be counted.*

SECTION 2. A NEW SECTION OF KRS 313.259 TO 313.350 IS CREATED TO READ AS FOLLOWS:

(1) *A licensed dentist may delegate to a licensed dental hygienist the administration of block and infiltration anesthesia and nitrous oxide analgesia under the direct supervision of a dentist if the dental hygienist completes the following requirements and receives a certificate of verification from the board:*

(a) *Formal training from a dental or dental hygiene school accredited by the Council on Dental Accreditation;*

(b) *A minimum of thirty-two (32) hours covering all of the following topics, including but not limited to anatomical considerations, basic injunction technique, basic placement technique, nitrous oxide administration, record keeping, armamentarium exercise, local anesthesia and nitrous oxide, techniques of maxillary anesthesia, techniques of mandibular injections, partner injections and partner administration of nitrous oxide, neurophysiology, pharmacology of local anesthetics and nitrous oxide, pharmacology of vasoconstrictors, physical and psychological evaluation, local and systemic complications, and contraindications;*

(c) *A minimum of two (2) hours of clinical education for nitrous oxide administration with successful completion of administration, monitoring, and removal of nitrous oxide on at least two (2) patients;*

(d) A minimum of twelve (12) hours demonstrating mastery of local anesthesia applications and successful completion of at least three (3) injections each of all maxillary and mandibular injection sites; and

(e) A score that exceeds seventy-four percent (74%) on a written examination administered after coursework and clinical training.

(2) The board shall serve as administrator of this certification and shall require dental hygienists to pay a fee not to exceed one hundred dollars ($100) for certification.

(3) The board shall approve all continuing education courses and require them for individuals holding anesthesia certification for over one (1) year without practical application. The courses shall be developed and implemented by dental education institutions accredited by the Council on Dental Accreditation.

SECTION 3. A NEW SECTION OF KRS 313.259 TO 313.350 IS CREATED TO READ AS FOLLOWS:

(1) The board shall promulgate administrative regulations to define certification requirements, duties, training, and standards of practice that may be performed by a dental assistant who has a minimum of one (1) year of dental office experience and has successfully passed the dental assisting course at an institution of dental education accredited by the Council on Dental Accreditation.

(2) The board shall approve the instructor and the courses of study for approving duties, training, and standards of practice that may be performed by a dental assistant and shall authorize the course instructor to issue certificates, under the board's direction, to those who successfully complete the requirements.

(3) A dental assistant shall practice under the supervision, order, control, and full responsibility of a dentist licensed under this chapter.

(4) The certificate for each dental assistant shall be continuously displayed in a conspicuous place in the office of the licensee.

(5) Supervising dentists shall only assign to dental assistants procedures that do not require the professional competence of a licensed dentist or a licensed dental hygienist.

(6) Dental assistant services may include coronal polishing, a cosmetic procedure that is not essential to therapeutic oral prophylaxis, if the following criteria are observed:

(a) Polishing activities are limited to the use of a rubber cap attached to a slow-speed rotary dental handpiece;

(b) The assistant has received a certificate from the board's approved instructor that ensures the assistant has successfully completed a dental assisting course developed by the Kentucky Board of Dentistry and a committee of dental educators from the Kentucky institutions of dental education accredited by the Council on Dental Accreditation; and

(c) The dental assisting course shall include basic dental assisting and coronal polishing instruction that includes didactic, preclinical, clinical training and competency testing.

(7) Dental assistant services shall not include the following:

(a) The practice of dental hygiene or the performance of the duties of a licensed dental hygienist that require the use of any instrumentation which may elicit the removal of calcareous deposits or accretions on the crowns and roots of teeth;

(b) Diagnosis;

(c) Treatment planning and prescription, including prescriptions for drugs or medicaments, or authorization for restorative, prosthodontic, or orthodontic appliances;

(d) Surgical procedures on hard or soft tissues of the oral cavity, or any other intraoral procedure that contributes to or results in an irreversible alteration of the oral anatomy; and

(e) The making of final impressions from which casts are made to construct any dental restoration.

HB 693, AN ACT relating to denturists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 313.200 is amended to read as follows:

(1) When the appointments have been made as provided in this section, the Kentucky Board of Dentistry shall consist of *eleven (11)*[~~nine (9)~~] members, each appointed by the Governor. Seven (7) members of the board shall be licensed dentists appointed from a list of three (3) names recommended for each board position by the resident licensed dentists of Kentucky at an annual election at a time and place selected by the Kentucky Board of Dentistry. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. One (1) member of the board shall be a dental hygienist licensed to practice dental hygiene in the Commonwealth. Each appointment to the board of a licensed dental hygienist shall be made from a list of three (3) names recommended for this position by the resident licensed dental hygienists of Kentucky at an annual election at a time and place selected by the board. *Two (2) members of the board shall be licensed denturists as defined in Section 3 of this Act appointed from a list of three (3)*

names recommended for each available position by the resident denturists of Kentucky at an annual election at a time and place selected by the board.

(2) (a) Each dentist member shall have been an actual resident and licensed practicing dentist of this state for not less than five (5) years immediately preceding his appointment to the board. He shall not be in any way connected with or interested in any dental college or dental department of any institution of learning or dental supply business.

(b) Each dental hygienist member shall have been an actual resident dental hygienist and licensed practicing dental hygienist in this state for not less than five (5) years preceding his appointment to the board. He shall not be in any way connected with or interested in any dental college or dental department of any institution of learning or dental supply business.

(3) Each member of the board shall hold office for four (4) years, and until his successor is appointed and qualifies, except that no member shall serve more than two (2) consecutive terms.

(4) Any vacancy shall be filled for the unexpired term by the Governor in accordance with the provisions of subsection (1) of this section.

(5) Each member of the board shall receive any necessary expenses incurred in attending its meetings. Each member except the secretary-treasurer shall receive as compensation fifty dollars ($50) for each day actually engaged in the duties of his office. The secretary-treasurer shall receive an annual compensation to be established by the board at its annual session.

Section 2. KRS 313.220 is amended to read as follows:

(1) The board shall administer this chapter. It may make regulations for its own conduct and procedure, and provide for affiliation with the American Association of Dental Examiners. It may select the subjects and the standard of proficiency and percentage for examinations to practice dentistry, and it shall conduct the examinations of all applicants for a license under the provisions of this chapter.

(2) The board shall make a report of its proceedings to the Governor by February 1 of each year, showing all money received and disbursed by it pursuant to this chapter for the preceding years ended December 31.

(3) The board may employ attorneys to advise and assist it in enforcing this chapter, and pay them a reasonable compensation for such work.

(4) The board may, subject to the provisions of this chapter, regulate the practice of dentistry and the use of dental auxiliary personnel in this state.

(5) The board may employ such assistants, inspectors, investigators, clerks, and other persons as it deems necessary to enforce this chapter. It may authorize any of such employees to make investigations and report to the board with respect to any violation of any of the provisions of this chapter or any regulation or order of the board, to inspect any dental office or place where dental operations are performed and to deliver or transmit to any holder of a license under this chapter any order of the board with respect to the licensee's performance of his work under the authority of such license. If any holder of a license under this chapter fails or refuses to admit any such representative of the board for the purpose of making any such examination or inspection or if any holder of any such license fails or refuses to comply with any order or direction of the board, such failure or refusal shall be reported to the board for whatever disciplinary action it deems appropriate, including revocation of any license if such failure or refusal is deemed by the board to be material.

(6) Any representative of the board performing any of the duties referred to in this section shall be furnished with a copy, certified by the secretary-treasurer, of the order of the board pursuant to which he is performing such duties.

(7) The board shall establish a licensing process and begin issuing licenses required under Section 4 of this Act no later than six (6) months after the effective date of this Act. If the board does not comply within the allotted time, the Kentucky Denturist Association may establish a licensing process and begin issuing licenses required under Section 4 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

For purposes of Sections 3 to 6 of this Act, unless the context otherwise requires:

(1) "Board" means the Kentucky Board of Dentistry;

(2) "Denture" means any removable full or partial upper or lower prosthetic dental appliance to be worn in the mouth;

(3) "Denturist" means a person licensed to engage in the practice of denturitry;

(4) "Practice of denturitry" means:

(a) The making, fitting, constructing, altering, reproducing, or repairing of a denture; relining, adjusting, and furnishing, or supplying of a denture directly to an individual; or advising the individual on the use of a denture; or

(b) The taking of any impressions, bite registrations, casts, try-ins, or designs preparatory to the provision of dentures to an individual.

(c) Any person, firm, corporation, business entity or any combination of these shall be regarded as practicing denturitry if they perform denturitry services for a fee, salary, or other reward, advertise to perform denturitry services, or use words, letters, or insignia implying that they are engaged in the practice of denturitry. All

denturitry work except cast frame works shall be performed at the address shown on the denturist's license.

SECTION 4. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) A person shall not practice or attempt to engage in the practice of denturitry after the effective date of this Act, unless the person:

(a) Is licensed by the Board of Dentistry as a denturist; and

(b) Has registered his or her license with the board; or

(c) Has complied with the provisions of Section 6 of this Act.

(2) A person who engages in the practice of denturity in compliance with subsection (1) of this section shall not be deemed to be practicing dentistry if the person:

(a) Is not licensed as a dentist under KRS Chapter 313; and

(b) Does not perform any other action defined as practicing dentistry under KRS 313.010.

SECTION 5. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

Any person who practices denturitry and is not licensed under Sections 3 to 6 of this Act and is not otherwise authorized by statute to perform the services shall be considered to be practicing denturitry under KRS Chapter 313 under the jurisdiction of the board.

SECTION 6. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) A person shall meet the following minimum requirements to be eligible for licensing as a denturist:

(a) Completion of at least two (2) years of training in denturitry at an educational institution accredited by a national or regional accrediting agency;

(b) Completion of a least two (2) years as an apprentice practicing denturitry under the direct supervision of a licensed dentist or denturist;

(c) Certification in cardiopulmonary resuscitation; and

(d) Completion, annually, of at least twelve (12) hours of continuing education in the practice of denturitry.

(2) Reciprocal agreements with denturitry certifying boards of other states or certifying agencies shall be accepted without further examination.

(3) The following licensing requirements shall apply to all persons engaged in the practice of denturitry in Kentucky on or before the effective date of this Act. Each applicant shall:

(a) Submit to the board three (3) affidavits from persons other than the applicant's family members who confirm that the person seeking licensing has practiced denturitry in Kentucky on or before the effective date of this Act;

(b) Submit to the board three (3) affidavits from persons who have received denturitry services from the applicant within one (1) year immediately preceding the effective date of this Act; and

(c) Submit to the board proof of membership in the Kentucky Denturist Association for at least two (2) consecutive years.

The Committee Substitute to **HB 693** is as follows:

HB 693, AN ACT relating to denturists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 313.200 is amended to read as follows:

(1) When the appointments have been made as provided in this section, the Kentucky Board of Dentistry shall consist of ***eleven (11)***[~~nine (9)~~] members, each appointed by the Governor. Seven (7) members of the board shall be licensed dentists appointed from a list of three (3) names recommended for each board position by the resident licensed dentists of Kentucky at an annual election at a time and place selected by the Kentucky Board of Dentistry. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. One (1) member of the board shall be a dental hygienist licensed to practice dental hygiene in the Commonwealth. Each appointment to the board of a licensed dental hygienist shall be made from a list of three (3) names recommended for this position by the resident licensed dental hygienists of Kentucky at an annual election at a time and place selected by the board. ***Two (2) members of the board shall be licensed denturists as defined in Section 3 of this Act and appointed from a list of three (3) names recommended for each available position by the Kentucky Denturist Association.***

(2) (a) Each dentist member shall have been an actual resident and licensed practicing dentist of this state for not less than five (5) years immediately preceding his appointment to the board. He shall not be in any way connected with or interested in any dental college or dental department of any institution of learning or dental supply business.

(b) Each dental hygienist member shall have been an actual resident dental hygienist and licensed practicing dental hygienist in this state for not less than five (5) years preceding his appointment to the board. He shall not be in any way connected with or interested in any dental college or dental department of any institution of learning or dental supply business.

(3) Each member of the board shall hold office for four (4) years, and until his successor is appointed and qualifies, except that no member shall serve more than two (2) consecutive terms.

(4) Any vacancy shall be filled for the unexpired term by the Governor in accordance with the provisions of subsection (1) of this section.

(5) Each member of the board shall receive any necessary expenses incurred in attending its meetings. Each member except the secretary-treasurer shall receive as compensation fifty dollars ($50) for each day actually engaged in the duties of his office. The secretary-treasurer shall receive an annual compensation to be established by the board at its annual session.

Section 2. KRS 313.220 is amended to read as follows:

(1) The board shall administer this chapter. It may make regulations for its own conduct and procedure, and provide for affiliation with the American Association of Dental Examiners. It may select the subjects and the standard of proficiency and percentage for examinations to practice dentistry, and it shall conduct the examinations of all applicants for a license under the provisions of this chapter.

(2) The board shall make a report of its proceedings to the Governor by February 1 of each year, showing all money received and disbursed by it pursuant to this chapter for the preceding years ended December 31.

(3) The board may employ attorneys to advise and assist it in enforcing this chapter, and pay them a reasonable compensation for such work.

(4) The board may, subject to the provisions of this chapter, regulate the practice of dentistry and the use of dental auxiliary personnel in this state.

(5) The board may employ such assistants, inspectors, investigators, clerks, and other persons as it deems necessary to enforce this chapter. It may authorize any of such employees to make investigations and report to the board with respect to any violation of any of the provisions of this chapter or any regulation or order of the board, to inspect any dental office or place where dental operations are performed and to deliver or transmit to any holder of a license under this chapter any order of the board with respect to the licensee's performance of his work under the authority of such license. If any holder of a license under this chapter fails or refuses to admit any such representative of the board for the purpose of making any such examination or inspection or if any holder of any such license fails or refuses to comply with any order or direction of the board, such failure or refusal shall be reported to the board for whatever disciplinary action it deems appropriate, including revocation of any license if such failure or refusal is deemed by the board to be material.

(6) Any representative of the board performing any of the duties referred to in this section shall be furnished with a copy, certified by the secretary-treasurer, of the order of the board pursuant to which he is performing such duties.

(7) The board shall establish a licensing process and begin issuing licenses required under Section 4 of this Act no later than six (6) months after the effective date of this Act. If the board does not comply within the allotted time, the board shall issue a license to each person that the Kentucky Denturist Association certifies as being qualified to practice denturitry as required under Section 5 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

For purposes of Sections 1 and 2 of this Act and Sections 3 to 6 of this Act, unless the context otherwise requires:

(1) "Board" means the Kentucky Board of Dentistry;

(2) "Denture" means any removable full or partial upper or lower prosthetic dental appliance to be worn in the mouth;

(3) "Denturist" means a person licensed to engage in the practice of denturitry;

(4) "Practice of denturitry" means:

(a) The making, fitting, constructing, altering, reproducing, or repairing of a denture; relining, adjusting, and furnishing, or supplying of a denture directly to an individual; or advising the individual on the use of a denture; or

(b) The taking of any impressions, bite registrations, casts, try-ins, or designs preparatory to the provision of dentures to an individual.

(c) Any person, firm, corporation, or business entity or any combination of these shall be regarded as practicing denturitry if he or she performs denturitry services for a fee, salary, or other reward, advertises to perform denturitry services, or uses words, letters, or insignia implying that he or she is engaged in the practice of denturitry. All denturitry work except cast frame work shall be performed at the address shown on the denturist's license.

SECTION 4. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) A person shall not practice or attempt to engage in the practice of denturitry after the effective date of this Act, unless the person is licensed by the Board of Dentistry as a denturist or a dentist, or is registered by the board as a dental laboratory technician.

(2) A person who engages in the practice of denturitry in compliance with subsection (1) of this section shall not be deemed to be practicing dentistry if the person:

(a) Is not licensed as a dentist under KRS Chapter 313; and

(b) Does not perform any other action defined as practicing dentistry under KRS 313.010.

(3) A person who violates any provision of this section shall be fined one thousand dollars ($1,000) or imprisoned in the county jail for not more than thirty (30) days, or both, for the first offense. For each subsequent offense, the person shall be fined two thousand dollars ($2,000) or imprisoned in the county jail for not more than sixty (60) days, or both. Each day that a person without a license practices or attempts to practice denturitry shall constitute a separate offense.

SECTION 5. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

The board may institute, in its own name, proceedings to temporarily or permanently restrain and enjoin violations of Sections 3 to 6 of this Act, including but not limited to persons who have not obtained a license, regardless of whether the person has been convicted for violation of any penal provisions, and shall not be required to pay any costs or filing fees or furnish any bond in connection with the proceedings.

SECTION 6. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) A person who is not a candidate for licensure under subsections (3) or (4) of this section shall meet the following minimum requirements to be eligible for licensing as a denturist:

(a) Completion of at least two (2) years of training in denturitry at an educational institution accredited by a national or regional accrediting agency;

(b) Completion of at least two (2) years as an apprentice practicing denturitry under the direct supervision of a licensed dentist or denturist; and

(c) Certification in cardiopulmonary resuscitation.

(2) Upon receipt of an application from a person meeting the requirements of subsection (1) of this section, the board shall issue a license.

(3) Reciprocal agreements with denturitry certifying or licensing boards of other states or certifying or licensing agencies shall be accepted without further examination. The board shall issue a Kentucky license to a person applying under this subsection upon presentation of a certified letter from the other state verifying certification or licensure.

(4) A person practicing denturitry in Kentucky prior to the effective date of this Act shall be granted a license by the board if the person submits the following information to the board:

(a) Three (3) affidavits from persons other than the applicant's family members who confirm that the person seeking licensing has practiced denturitry in Kentucky on or before the effective date of this Act;

(b) Three (3) affidavits from persons who have received denturitry services from the applicant within one (1) year immediately preceding the effective date of this Act; and

(c) Proof of membership in the Kentucky Denturist Association for at least two (2) consecutive years.

(5) The board shall require, as a condition of license renewal, annual completion of twelve (12) hours of continuing education in the practice of denturitry.

(6) The board may institute disciplinary action consistent with KRS 313.150 against a denturist for conduct otherwise prohibited of a dentist under Sections 3 to 6 of this Act or KRS 313.130 or 313.140, except for conduct specifically relating to a dentist.

(7) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A within six (6) months after the effective date of this Act to carry out the provisions of Sections 1 and 2 of this Act and Sections 3 to 6 of this Act.

HB 731, AN ACT relating to the human service transportation delivery program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.870 is amended to read as follows:

(1) There is hereby created a Coordinated Transportation Advisory Committee, also known as the "CTAC", that is to be composed of designated members of the cabinet, the Cabinet for Health Services,~~[the Cabinet for Families and Children,]~~ and the Workforce Development Cabinet.

(2) Members of the CTAC shall serve terms as determined by each respective cabinet. The CTAC shall meet at least once a month, but may meet more frequently if desired, and shall maintain a written record of all meetings and actions taken. In all proceedings of the CTAC and in all actions taken by the CTAC, the cabinet *and*~~[,]~~ the Cabinet for Health Services~~[, and the Cabinet for Families and Children]~~ shall each have two (2) votes and the Workforce Development Cabinet shall have one (1) vote. A quorum of the CTAC shall be required to conduct any official business.

(3) The staff of the cabinet's Office of Transportation Delivery shall provide administrative support to the CTAC. The executive director of the Office of Transportation Delivery shall set the agenda for meetings of the CTAC. The Office of Transportation Delivery may promulgate administrative regulations under KRS Chapter 13A governing the human service transportation delivery program on behalf of the CTAC. The cabinet shall promulgate administrative regulations under

KRS Chapter 13A to specify the duties and responsibilities of the CTAC.

Section 2. KRS 281.872 is amended to read as follows:

(1) The cabinet shall employ a pool of program coordinators. Each program coordinator shall be a state employee and reside in the cabinet.

(2) The program coordinator shall initially investigate all complaints regarding recipients, subcontractors, and the broker for the area and attempt to immediately resolve the problem. All complaints relating to Medicaid fraud or abuse shall be forwarded by the cabinet to the Cabinet for Health Services. The program coordinator shall further be responsible for assisting a person with a complaint as required in subsection (4) of this section.

(3) The program coordinator shall investigate issues of eligibility that result in a person being denied transportation, determine the status of the person's case, and attempt to immediately resolve the matter in order for the person to continue to receive transportation services. A broker shall not deny any person transportation services until the program coordinator resolves the question of the person's eligibility and verifies to the broker that the person is actually ineligible to receive transportation services. A broker who violates the provisions of this subsection shall be fined one thousand dollars ($1,000) ***per trip*** and shall be subject to his or her contract being revoked ***under the provisions of KRS Chapter 45A***~~[by the cabinet]~~. The program coordinator shall coordinate information about eligibility to participate in the human service transportation delivery program between the cabinet, the Cabinet for Health Services,~~[the Cabinet for Families and Children,]~~ and the Workforce Development Cabinet. The cabinet shall ensure each program coordinator has direct computer access to all relevant databases used by all state agencies to administer the human service transportation delivery program. The Department for Medicaid Services shall provide each program coordinator with a monthly eligibility list for the area.

(4) If a program coordinator is unable to resolve a complaint against a broker or subcontractor to the satisfaction of the person lodging the complaint on the same business day the complaint is made, the program coordinator shall immediately act to assist the person in contacting the appropriate state agency to resolve the complaint. The program coordinator shall ensure that the cabinet, the Cabinet for Health Services,~~[the Cabinet for Families and Children,]~~ and the Workforce Development Cabinet strictly adhere to the provisions of 42 C.F.R. governing a person's right to appeal the denial of service or failure for a complaint to be acted upon promptly. The cabinet shall be required to inform in writing, every person who has either been denied transportation or who has failed to have a complaint resolved in a prompt manner under the human service transportation delivery program, of their right to a hearing to be held in the county where the person lives, and the process to follow to obtain a hearing.

(5) All brokers and subcontractors shall be prohibited from retaliating or attempting retribution in any way against any person using the human service transportation delivery program who files a complaint. A broker ***who violates this subsection shall have his or her contract revoked under the provisions of KRS Chapter 45A. A subcontractor who violates this subsection shall have his or her contract revoked by the broker upon consultation with, and approval by, the cabinet***~~[or subcontractor who is determined by the cabinet to have violated the provisions of this subsection, after an investigation and hearing conducted by the cabinet, shall have his or her contract revoked by the cabinet within ninety (90) days of the hearing and shall be prohibited from participating in the human service transportation delivery program for five (5) years from the date of the cabinet's determination]~~.

Section 3. KRS 281.876 is amended to read as follows:

(1) The cabinet shall require and shall ensure that all brokers shall permit a person to request and receive human service transportation with less than the time notice established by administrative regulation for scheduling transportation services if the person's physician submits verification to the broker that the person needs to be seen by the physician or another physician to whom the person is being referred for medical treatment. A broker who violates the provisions of this subsection shall be fined one thousand dollars ($1,000) ***per trip*** and shall be subject to his or her contract being revoked ***under the provisions of KRS Chapter 45A***~~[by the cabinet]~~.

(2) The physician verification required under subsection (1) of this section may be transmitted in any of the following methods:

(a) Oral verification over the telephone;

(b) Written verification transmitted electronically by computer or by facsimile; or

(c) Written verification delivered by the person directly to the broker or subcontractor.

Section 4. KRS 281.879 is amended to read as follows:

(1) A broker ***who violates***~~[or subcontractor who is determined by the cabinet to have violated]~~ the provisions of KRS 281.872, 281.873, 281.874, 281.875, 281.876, or 281.878, ***shall have his or her contract revoked under the provisions of KRS Chapter 45A once continuity of service in the delivery area can be assured.***

(2) In addition to any other penalty or action taken under this chapter or KRS Chapter 45A, a broker who denies transportation services to any person verified as eligible to receive the services shall be fined one thousand dollars ($1,000) by the cabinet for each trip denied.

(3) The cabinet may withhold the amount of any fine imposed under the human service transportation delivery program from its payment to a broker[~~after an investigation and hearing conducted by the cabinet, shall have his or her contract revoked by the cabinet within ninety (90) days of the hearing and shall be prohibited from participating in the human service transportation delivery program for five (5) years from the date of the cabinet's determination~~].

The Committee Substitute to **HB 731** is as follows:

HB 731, AN ACT relating to the human service transportation delivery program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.870 is amended to read as follows:

(1) There is hereby created a Coordinated Transportation Advisory Committee, also known as the "CTAC", that is to be composed of designated members of the cabinet, the Cabinet for Health Services,[~~ the Cabinet for Families and Children,~~] and the Workforce Development Cabinet.

(2) Members of the CTAC shall serve terms as determined by each respective cabinet. The CTAC shall meet at least once a month, but may meet more frequently if desired, and shall maintain a written record of all meetings and actions taken. In all proceedings of the CTAC and in all actions taken by the CTAC, the cabinet ***and***[~~,~~] the Cabinet for Health Services[~~, and the Cabinet for Families and Children~~] shall each have two (2) votes and the Workforce Development Cabinet shall have one (1) vote. A quorum of the CTAC shall be required to conduct any official business.

(3) The staff of the cabinet's Office of Transportation Delivery shall provide administrative support to the CTAC. The executive director of the Office of Transportation Delivery shall set the agenda for meetings of the CTAC. The Office of Transportation Delivery may promulgate administrative regulations under KRS Chapter 13A governing the human service transportation delivery program on behalf of the CTAC. The cabinet shall promulgate administrative regulations under KRS Chapter 13A to specify the duties and responsibilities of the CTAC.

Section 2. KRS 281.872 is amended to read as follows:

(1) The cabinet shall employ a pool of program coordinators. Each program coordinator shall be a state employee and reside in the cabinet.

(2) The program coordinator shall initially investigate all complaints regarding recipients, subcontractors, and the broker for the area and attempt to immediately resolve the problem. All complaints relating to Medicaid fraud or abuse shall be forwarded by the cabinet to the Cabinet for Health Services. The program coordinator shall further be responsible for assisting a person with a complaint as required in subsection (4) of this section.

(3) The program coordinator shall investigate issues of eligibility that result in a person being denied transportation, determine the status of the person's case, and attempt to immediately resolve the matter in order for the person to continue to receive transportation services. A broker shall not deny any person transportation services until the program coordinator resolves the question of the person's eligibility and verifies to the broker that the person is actually ineligible to receive transportation services. A broker who violates the provisions of this subsection shall be fined one thousand dollars ($1,000) ***per trip*** and shall be subject to his or her contract being revoked ***under the provisions of KRS Chapter 45A***[~~by the cabinet~~]. The program coordinator shall coordinate information about eligibility to participate in the human service transportation delivery program between the cabinet, the Cabinet for Health Services,[~~ the Cabinet for Families and Children,~~] and the Workforce Development Cabinet. The cabinet shall ensure each program coordinator has direct computer access to all relevant databases used by all state agencies to administer the human service transportation delivery program. The Department for Medicaid Services shall provide each program coordinator with a monthly eligibility list for the area.

(4) If a program coordinator is unable to resolve a complaint against a broker or subcontractor to the satisfaction of the person lodging the complaint on the same business day the complaint is made, the program coordinator shall immediately act to assist the person in contacting the appropriate state agency to resolve the complaint. The program coordinator shall ensure that the cabinet, the Cabinet for Health Services,[~~ the Cabinet for Families and Children,~~] and the Workforce Development Cabinet strictly adhere to the provisions of 42 C.F.R. governing a person's right to appeal the denial of service or failure for a complaint to be acted upon promptly. The cabinet shall be required to inform in writing, every person who has either been denied transportation or who has failed to have a complaint resolved in a prompt manner under the human service transportation delivery program, of their right to a hearing to be held in the county where the person lives, and the process to follow to obtain a hearing.

(5) All brokers and subcontractors shall be prohibited from retaliating or attempting retribution in any way against any person using the human service transportation delivery program who files a complaint. A broker ***who violates this subsection shall have his or her contract revoked under the provisions of KRS Chapter 45A. A subcontractor who violates this subsection shall have his or her contract revoked by the broker upon consultation with, and approval by, the cabinet***[~~or subcontractor who is determined by the cabinet to have violated the provisions of this subsection, after an investigation and hearing conducted by the cabinet, shall have his or her contract revoked by the cabinet within ninety (90) days of the hearing and shall be prohibited from participating in the human service transportation delivery program for five (5) years~~

~~from the date of the cabinet's determination~~].

Section 3. KRS 281.876 is amended to read as follows:

(1) The cabinet shall require and shall ensure that all brokers shall permit a person to request and receive human service transportation with less than the time notice established by administrative regulation for scheduling transportation services if the person's physician submits verification to the broker that the person needs to be seen by the physician or another physician to whom the person is being referred for medical treatment. A broker who violates the provisions of this subsection shall be fined one thousand dollars ($1,000) ***per trip*** and shall be subject to his or her contract being revoked ***under the provisions of KRS Chapter 45A***[~~by the cabinet~~].

(2) The physician verification required under subsection (1) of this section may be transmitted in any of the following methods:

(a) Oral verification over the telephone;

(b) Written verification transmitted electronically by computer or by facsimile; or

(c) Written verification delivered by the person directly to the broker or subcontractor.

Section 4. KRS 281.879 is amended to read as follows:

(1) A broker ***who violates***[~~or subcontractor who is determined by the cabinet to have violated~~] the provisions of KRS 281.872, 281.873, 281.874, 281.875, 281.876, or 281.878, ***shall have his or her contract revoked under the provisions of KRS Chapter 45A once continuity of service in the delivery area can be assured.***

(2) In addition to any other penalty or action taken under this chapter or KRS Chapter 45A, a broker who denies transportation services to any person verified as eligible to receive the services shall be fined one thousand dollars ($1,000) by the cabinet for each trip denied.

(3) The cabinet may withhold the amount of any fine imposed under the human service transportation delivery program from its payment to a broker[~~after an investigation and hearing conducted by the cabinet, shall have his or her contract revoked by the cabinet within ninety (90) days of the hearing and shall be prohibited from participating in the human service transportation delivery program for five (5) years from the date of the cabinet's determination~~].

Section 5. KRS 281.014 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) (a) The term "city taxicab certificate" or "city limousine certificate" means a certificate granting authority only for the operation of a given number of motor vehicles transporting passengers for hire, the principal operation of which is confined to the corporate limits of a city of the first or second class or an urban-county area and the city's suburban area, or the corporate limits of any city and its suburban area located in a county which contains a city of the first or second class or an urban-county area, and not operating over any regular route, and the destination of which motor vehicles are designated by the passengers at the time of such transportation;

(b) The term "county taxicab certificate" or "county limousine certificate" means a certificate granting authority only for the operation of a given number of motor vehicles transporting passengers for hire, the principal operation of which is confined to a specific county which does not contain a city of the first or second class and is not an urban-county area, and not operating over any regular route, and the destination of which motor vehicles are designated by the passengers at the time of the transportation;

(c) A "taxicab" means a motor vehicle operated under one (1) or more taxicab certificates, and is a vehicle designed or constructed to transport not more than fifteen (15) passengers exclusive of the driver;

(d) A "limousine" means a luxury motor vehicle passenger car which has either a standard or an extended wheelbase. The vehicle shall have additional rear seating capacity, area, and comforts, but shall be designed or constructed to transport not more than fifteen (15) passengers plus the driver;

(e) The term "taxicab license" means a license plate issued to a taxicab authorized to operate under a taxicab certificate;

(f) The term "limousine license" means a license plate issued to a limousine authorized to operate under a limousine certificate;

(2) (a) An "airport shuttle certificate" means a certificate granting authority only for the operation of motor vehicles exclusively transporting passengers or baggage for hire over regular routes between points within a city or its suburban area and an airport;

(b) An "airport shuttle vehicle" means a motor vehicle operated under one (1) or more airport shuttle certificates and which is designed or constructed to transport not more than fifteen (15) passengers plus the driver;

(c) The term "airport shuttle vehicle license" means a license plate issued for a motor vehicle authorizing its operation under one (1) or more airport shuttle certificates;

(3) The term "U-Drive-It" means any person who leases or rents a motor vehicle for a consideration to be used for the transportation of persons or property, but for which no driver is furnished, and the use of which motor vehicle is not for the transportation of persons or property for hire by the lessee or rentee;

(4) The term "driveaway" means the transporting and delivering of motor vehicles, except semitrailers, and trailers, whether destined to be used in either a private or for-hire capacity, under their own power or by means of a full mount method, saddle mount method, the tow bar method, or any combination of them over the highways of this state from any point of origin to any point of destination for-hire. The transportation of such vehicles by the full mount method on trailers or semitrailers shall not be included in the term;

(5) (a) "Disabled persons vehicle" means a motor vehicle especially equipped and used for the transportation of persons with disabilities and which is in compliance with the accessibility specifications of 49 C.F.R. Part 38, but it shall be designed and constructed to transport not more than fifteen (15) passengers plus the driver. It shall not mean an ambulance as defined in KRS 311.6521. It shall not mean a motor vehicle equipped with a stretcher;

(b) "Disabled persons carrier" means an irregular route common carrier for hire, transporting the general public who require transportation in disabled persons vehicles;

(c) "Disabled persons certificate" means a certificate that grants authority only for the operation of a given number of disabled persons vehicles for hire, the principal operation of which is confined to a specific county;

(6) "Human service transportation delivery" means the provision of transportation services to any person that is an eligible recipient in one (1) of the following state programs:

(a) Nonemergency medical transportation under KRS Chapter 205;

(b) Mental health, mental retardation, or comprehensive care under KRS Chapter 202A, 202B, 210, or 645;

(c)[~~Kentucky Works Program under KRS Chapter 194 or 205;~~

~~(d)~~] Aging services under KRS Chapter 205, 209, 216, or 273;

(d)[~~(e)~~]Vocational rehabilitation under KRS 151B or 157; or

(e)[~~(f)~~] Blind industries or rehabilitation under KRS Chapter 151B or 163;

(7) "Delivery area" means one (1) or more regions established by the cabinet in administrative regulations promulgated under KRS Chapter 13A for the purpose of providing human service transportation delivery in that region;

(8) "Broker" means a person selected by the cabinet through a request for proposal process to coordinate human service transportation delivery within a specific delivery area. A broker may also provide transportation services within the specific delivery area for which the broker is under contract with the cabinet;

(9) "Subcontractor" means a person who has signed a contract with a broker to provide human service transportation delivery within a specific delivery area and who meets human service transportation delivery requirements, including proper operating authority; and

(10) "CTAC" means the Coordinated Transportation Advisory Committee created under KRS 281.870.

HJR 148, A JOINT RESOLUTION directing the Cabinet for Health Services to develop an efficient network for the distribution of used assistive devices.

WHEREAS, the Cabinet for Health Services has oversight over many health care programs involving Kentuckians; and

WHEREAS, many of the health care programs involving Kentuckians provide financial support or reimbursement to Kentuckians for the purchase of assistive devices such as wheelchairs, crutches, walkers, and other medical supplies or durable goods; and

WHEREAS, many times the assistive devices are used for a short time for the treatment of temporary or acute conditions or injuries; and

WHEREAS, many Kentuckians do not qualify for the programs administered by the Cabinet for Health Services or alternative programs operated by other state or federal agencies that would provide, at little or no cost, assistive devices that are necessary to keep the persons working and functioning as independent members of society; and

WHEREAS, it is in the best interests of the Commonwealth and of its citizens to assure that people are able to function at their highest level, particularly if this can be accomplished with minimal assistance from the government; and

WHEREAS, new assistive devices are expensive and unaffordable for many persons with limited income, who do not qualify for assistance programs, or who do not have health insurance that provides coverage for the assistive devices;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Cabinet for Health Services shall submit a report by October 1, 2002, to the Interim Joint Committee on Health and Welfare that details its plans to develop a network for the distribution of used assistive devices. In furtherance of this report, the cabinet shall:

(1) Consult with other state agencies, including but not limited to the Department of Insurance, the Cabinet for Families and Children, and the Department for Vocational Rehabilitation to assess the needs of Kentuckians for assistive devices, the cost of assistive devices, and access to assistive devices through public or private for-profit or nonprofit agencies;

(2) Consult with health insurers and distributors of assistive devices and durable medical goods to determine the average length of time that these devices are used by individuals;

(3) Determine the best method of collecting used or donated assistive devices;

(4) Consider whether used or donated assistive devices should be made available at no charge or at on a sliding fee scale to low-income Kentuckians in need of the devices;

(5) Recommend methods to market the network at Kentuckians in need of assistive devices; and

(6) Make other recommendations as necessary.

Section 2. No later than January 1, 2003, the Cabinet for Health Services shall implement a network for the distribution of used assistive devices that is consistent with the cabinet's report to the General Assembly.

The Committee Substitute to **HJR 148** is as follows:

HJR 148, A JOINT RESOLUTION directing the Cabinet for Health Services to develop an efficient network for the distribution of used assistive devices.

WHEREAS, many health care programs within the Commonwealth provide financial support for the purchase of assistive devices such as wheelchairs, crutches, walkers, and other medical supplies or durable goods on behalf of persons with limited income; and

WHEREAS, these assistive devices may be used for a short time for the treatment of temporary or acute conditions or injuries; and

WHEREAS, many Kentuckians still do not qualify for programs providing assistive devices that are necessary to keep the persons working and functioning as independent members of society; and

WHEREAS, it is in the best interests of the Commonwealth and of its citizens to ensure that people are able to function at their highest level, particularly if this can be accomplished with minimal assistance from the government; and

WHEREAS, new assistive devices are expensive and unaffordable for many persons with limited income, who do not qualify for assistance programs, or who do not have health insurance that provides coverage for the assistive devices; and

WHEREAS, many local civic organizations and agencies voluntarily collect used assistive devices for distribution to Kentuckians in need; and

WHEREAS, more Kentuckians could be helped through a centralized network for the distribution of used or donated assistive devices; and

WHEREAS, the Cabinet for Health Services has oversight over many health care programs involving Kentuckians;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Cabinet for Health Services is requested to study the issues surrounding a distribution system for used assistive devices for persons who are uninsured, or who have limited income, and to report by December 1, 2002, to the Interim Joint Committee on Health and Welfare on any findings and conclusions to date. In furtherance of this report, the cabinet is requested to consult with other state and local agencies and civic organizations regarding the needs of Kentuckians for used or donated assistive devices and the current and the best methods for collecting and distributing used or donated assistive devices.

The Committee Amendment No. 1 Title to **HJR 148** is as follows:

By amending the title to read as follows:

"A JOINT RESOLUTION requesting the Cabinet for Health Services to study the issues surrounding a distribution system for used or donated assistive devices.".

SB 2, AN ACT relating to planning for tobacco and substance abuse prevention and services to individuals with mental illness, alcohol and other drug disorders, and dual diagnoses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.330 is amended to read as follows:

(1) As used in KRS 12.330 to 12.334, "KY-ASAP" means the Kentucky Agency for Substance Abuse Policy.

(2) The Kentucky Agency for Substance Abuse Policy is created and attached for administrative purposes to the Office of the Governor. KY-ASAP shall be headed by an executive director with experience in overseeing programs involving tobacco and substance abuse and shall have other staff as necessary to conduct its affairs.

(3) KY-ASAP shall administer an endowment from interest generated through funds appropriated or gifts, donations, or funds received from any source. KY-ASAP may expend endowment principal, if necessary in its discretion, to carry out the

purposes of KRS 12.330 to 12.334. These expenditures from the endowment principal are hereby appropriated for this purpose.

(4) (a) The[~~ eighteen (18) member~~] KY-ASAP Board is created to oversee the activities of KY-ASAP. Membership of the board shall be appointed by the Governor and shall consist of the following:

1. One (1) member representing the Kentucky Family Resource Youth Services Coalition[~~, or a designee~~];
2. ***The director of the Office of Family Resource and Youth Services Centers;***
3. One (1) member representing the Kentucky Health Department Association, or a designee;

4.[~~3.~~] The secretary of the Cabinet for Health Services[~~, or designee~~];

5.[~~4.~~] The secretary of the Justice Cabinet[~~, or a designee~~];

6.[~~5.~~] The secretary of the Cabinet for Families and Children[~~, or a designee~~];

7.[~~6.~~] One (1) member representing the Division of Substance Abuse within the Department for Mental Health and Mental Retardation Services, Cabinet for Health Services[~~, or a designee~~];

8.[~~7.~~] The commissioner of the Department for Public Health, Cabinet for Health Services[~~, or a designee~~];

9.[~~8.~~] The commissioner of the Department of Alcoholic Beverage Control[~~, or a designee~~];

10.[~~9.~~] The commissioner of the Department of Education;

11. The commissioner of the Department of Agriculture;

12. The commissioner of the Department of Local Government;

13.[~~10.~~] The director of the Administrative Office of the Courts[~~, or a designee~~];

14.[~~11.~~] ***A person who is a chairperson of a regional planning council appointed by the secretary of the Cabinet for Health Services from a list of five (5) chairpersons submitted by the Kentucky Association of Regional Mental Health/Mental Retardation Programs***[~~One (1) member representing the Kentucky Association of Regional Programs, or a designee~~];

15.[~~12.~~] One (1) member representing the Kentucky Heart Association[~~, or a designee~~];

16.[~~13.~~] One (1) member representing the Kentucky Lung Association[~~, or a designee~~];

17.[~~14.~~] One (1) member representing the Kentucky Cancer Society[~~, or a designee~~];

18. Two (2) members, one (1) representing the distilled spirits industry and one (1) representing the malt beverage industry, who are knowledgeable about the respective industry's efforts regarding underage drinking and prevention of alcohol abuse;

19.[~~15.~~] Two (2) members representing local tobacco addiction and substance abuse advisory and coordination boards; and

20.[~~16.~~] Two (2) members representing private community-based organizations, whether for-profit or nonprofit, with experience in programs involving smoking cessation or prevention or alcohol or substance abuse prevention[~~ and treatment~~].

Any association, agency, or organization that is entitled to be represented on the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses and the Kentucky Agency for Substance Abuse Policy shall be represented by the same individual on both entities. If a designee is appointed to serve as a substitute for the person holding an office, the designee shall be the same person who represents that office on the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses.

(b) Members shall serve for a term of four (4) years, may be reappointed, and may serve no more than two (2) consecutive terms. Members shall not be compensated but shall receive reimbursement for expenses incurred while performing board business.

(c) The board shall meet at least quarterly. A quorum of ten (10) members shall be required for the transaction of business. Meetings shall be held at the call of the chair, or upon the written request of two (2) members to the chair.

(d) The board shall:

1. Oversee deposits and expenditures from the endowment;
2. Request, in its discretion, an audit relating to the expenditure of endowment funds;
3. Receive quarterly reports from the executive director regarding KY-ASAP's activities;
4. Progress toward development and implementation of the strategic plan;
5. Recommend to KY-ASAP the most efficient means for using public funds to coordinate, supplement, and support high quality and ongoing programs of all public agencies and private service providers related to smoking cessation and prevention and alcohol and substance abuse prevention and ***the manner within***

which these programs affect treatment;

6. Recommend matters for review and analysis by KY-ASAP; and

7. Perform other duties as necessary for the oversight of KY-ASAP.

(5) KY-ASAP shall promote the implementation of research-based strategies that target Kentucky's youth and adult populations.

(6) KY-ASAP shall vigorously pursue the philosophy that tobacco in the hands of Kentucky's youth is a drug abuse problem because of the addictive qualities of nicotine, and because tobacco is the most prevalent gateway drug that leads to later and escalated drug and alcohol abuse.

Section 2. KRS 12.332 is amended to read as follows:

KY-ASAP shall:

(1) Develop a strategic plan to reduce the prevalence of smoking and drug and alcohol abuse among both the youth and adult populations in Kentucky;

(2) Monitor the data and issues related to youth alcohol and tobacco access, smoking cessation and prevention, and substance abuse policies, their impact on state and local programs, and their flexibility to adapt to the needs of local communities and service providers;

(3) Make policy recommendations to be followed to the extent permitted by budgetary restrictions and federal law, by executive branch agencies that work with smoking cessation and prevention and alcohol and substance abuse issues to ensure the greatest efficiency in agencies and to ensure that a consistency in philosophy will be applied to all efforts undertaken by the administration in initiatives related to smoking cessation and prevention and alcohol and substance abuse;

(4) Identify existing resources in each community that advocate or implement programs for smoking cessation or prevention, or drug and alcohol abuse prevention, education, or treatment;

(5) Encourage coordination among public and private, state and local, agencies, organizations, and service providers, and monitor related programs;

(6) Act as the referral source of information, utilizing existing information clearinghouse resources within the Department for Public Health and CHAMPIONS for a Drug Free Kentucky Office, relating to youth tobacco access, smoking cessation and prevention, and substance abuse prevention ***and***[~~,~~] cessation[~~, and treatment~~] programs. KY-ASAP shall identify gaps in information referral sources;

(7) Search for grant opportunities for existing programs within the Commonwealth;

(8) Make recommendations to state and local agencies and local tobacco addiction and substance abuse advisory and coordination boards;

(9) Observe programs from other states;

(10) Coordinate services among local and state agencies, including, but not limited to, the Justice Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, ***the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses,*** the Department of Agriculture, ***the Department for Local Government,*** the Public Protection and Regulation Cabinet, the Administrative Office of the Courts, and the Education, Arts, and Humanities Cabinet;

(11) Assure the availability of training, technical assistance, and consultation to local service providers for programs funded by the Commonwealth that provide services related to tobacco addiction, smoking cessation or prevention, or alcohol or substance abuse;

(12) Review existing research on programs related to smoking cessation and prevention and substance abuse prevention and treatment;

(13) Comply with any federal mandate regarding smoking cessation and prevention and substance abuse, to the extent authorized by state statute;

(14) Establish a mechanism to coordinate the distribution of funds to support any local prevention, treatment, and education program based on the strategic plan developed in subsection (1) of this section that could encourage smoking cessation and prevention through efficient, effective, and research-based strategies;

(15) Oversee a school-based initiative that links schools with community-based agencies and health departments to implement School Programs to Prevent Tobacco Use, based upon the model recommended by the Centers for Disease Control and Prevention. To the extent permitted by resources, the initiative shall involve input by and services from each of the family resource and youth services centers, regional prevention centers, and existing school-based antidrug programs;

(16) Work with community-based organizations to encourage them to work together to establish comprehensive tobacco addiction and substance abuse prevention education programs and carry out the strategic plan developed in this section. These organizations shall be encouraged to partner with district and local health departments and community mental health centers to plan and implement interventions to reach youths before tobacco addiction and substance abuse become a problem in their lives;

(17) Coordinate media campaigns designed to demonstrate the negative impact of smoking and the increased risk of tobacco addiction, substance abuse, and the development of other disease in children, young people, and adults. To accomplish this objective, KY-ASAP shall work with local media to reach all segments of the community quickly and efficiently;

(18) Certify to the Governor and the General Assembly during the budget request process established under KRS Chapter 48 the extent to which each entity receiving state funds has cooperated with KY-ASAP, coordinated with community resources, and vigorously pursued the philosophy of KY-ASAP;

(19) ***Prior to October 1, 2002, develop a performance-based reporting system that includes benchmarks and methods of measuring performance and report on the system developed to the Interim Joint Committee on Health and Welfare;***

(20) Promulgate any administrative regulations necessary to implement KRS 12.330 to 12.334; and

(21)[~~(20)~~] Report ***annually*** to the Legislative Research Commission and Governor by October 1 ***of each year***[~~, 2000,~~] regarding the proper organization of state government agencies that will provide the greatest coordination of services, and report semiannually to the Legislative Research Commission***, the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses,*** and ***the*** Governor on the proper organization structure, devising and implementing an accountability system to be designed to ensure efficiency and efficacy of services and grants, and on other matters as requested by the Legislative Research Commission and Governor.

Section 3. KRS 12.334 is amended to read as follows:

(1) KY-ASAP shall establish in each county a local tobacco addiction and alcohol and substance abuse advisory and coordination board to assist in planning, overseeing, and coordinating the implementation of local programs related to smoking cessation and prevention and alcohol and substance abuse prevention ***and***[~~,~~] cessation,[~~ and treatment,~~] although a single board may be established for multiple counties to ensure a comprehensive range of services. The board shall assist with the coordination of programs provided by public and private entities. If the existing programs of private service providers are of high quality, KY-ASAP shall concentrate on providing missing elements and support for those providers. The Cabinet for Health Services shall support the communities' efforts.

(2) KY-ASAP shall consult with community leaders to solicit the names of residents from the community to serve on each advisory and coordination board. KY-ASAP shall request from each board the submission of reasonable reports on the effectiveness, efficiency, and efforts of each local program, including recommendations for increased or decreased funding, and KY-ASAP shall supply information as necessary to the advisory and coordination board to enable it to carry out its functions.

(3) KY-ASAP shall provide incentives to encourage multicounty advisory and coordination board requests and shall establish a single board to represent all counties making the request. ***In establishing a board, KY-ASAP shall use, to the fullest extent possible,***[~~Priority in establishing a board shall be given to~~] existing regional prevention centers or coalitions, community organizations, or local Kentucky Incentives for Prevention (KIP) project coalitions. Membership shall consist of residents from each of the counties.

(4) Each advisory and coordination board shall develop a long-term community strategy that is designed to reduce the incidence of youth and young adult smoking and tobacco addiction, promote resistance to smoking, reduce the incidence of substance abuse, and ***advise the regional mental health and mental retardation boards and regional planning councils established under KRS Chapter 210 of suggested methods of promoting***[~~promote~~] effective treatment of substance abuse. All county resources, both private and public, for-profit and nonprofit, shall be considered in developing this strategy.

  (a) Employers, local leaders, schools, family resource and youth services centers, health care providers and institutions, ***regional mental health and mental retardation boards and regional planning councils,*** economic developers, and other relevant local and regional entities shall be consulted in the development of the strategy.

  (b) An assessment of needs and available services shall be included in the strategy.

Section 4. KRS 210.502 is amended to read as follows:

(1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses. The commission shall consist of:

  (a) The secretary of the Cabinet for Health Services;

  (b) The secretary of the Cabinet for Families and Children;

  (c) The secretary of the Justice Cabinet;

  (d) The commissioner of the Department for Mental Health and Mental Retardation Services;

  (e) The commissioner of the Department for Medicaid Services;

  (f) The commissioner of the Department of Corrections;

  (g) The commissioner of the Department of Juvenile Justice;

  (h) The commissioner of the Department of Education;

  (i) The commissioner of the Department of Vocational Rehabilitation;

(j) The director of the Protection and Advocacy Division of the Public Protection and Regulation Cabinet;

(k) ***The director of the Office of Family Resource and Youth Services Centers;***

(l) The executive director of the Office of Aging Services of the Cabinet for Health Services;

(m) The executive director of the Kentucky Agency for Substance Abuse Policy;

(n) The executive director of the Criminal Justice Council;

(o) The director of the Administrative Office of the Courts;

(p) The chief executive officer of the Kentucky Housing Commission;

(q) The executive director of the Office of Transportation Delivery of the Transportation Cabinet;

(r) Three (3) members of the House of Representatives who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Speaker of the House;~~[and]~~

(s)~~[(l)]~~ Three (3) members of the Senate who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Senate President***;***

(t) A person and one (1) alternate who is a chairperson of a regional planning council appointed by the secretary of the Cabinet for Health Services from a list of five (5) chairpersons submitted by the Kentucky Association of Regional Mental Health/Mental Retardation Programs;

(u) A consumer and one (1) alternate who is a consumer of mental health or substance abuse services who are over age eighteen (18) appointed by the secretary of the Cabinet for Health Services from a list of up to three (3) consumers submitted by any consumer advocacy organization operating within Kentucky; and

(v) An adult family member and one (1) alternate who is an adult family member of a consumer of mental health or substance abuse services appointed by the secretary of the Cabinet for Health Services from a list of up to three (3) persons submitted by any family advocacy organization operating within Kentucky.

Any association, agency, or organization that is entitled to be represented on the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses and the Kentucky Agency for Substance Abuse Policy shall be represented by the same individual on both entities. If a designee is appointed to serve as a substitute for the person holding an office, the designee shall be the same person who represents that office on the Kentucky Agency for Substance Abuse Policy.

(2) The secretary of the Cabinet for Health Services and one (1) member of the General Assembly appointed to the commission shall serve as co-chairs of the commission.

(3) Members ***designated in paragraphs (a) to (s) of subsection (1) of this section*** shall serve during their terms of office.

(4) Members and alternates designated in paragraphs (t) to (v) of subsection (1) of this section shall serve a term of two (2) years and may be reappointed for one (1) additional term. These members may be reimbursed for travel expenses in accordance with administrative regulations governing reimbursement for travel for state employees.

Section 5. KRS 210.504 is amended to read as follows:

(1) The commission created in KRS 210.502 shall meet as often as necessary to accomplish its purpose but shall meet at least quarterly~~[during the 2000-2001 biennium, and the first meeting shall be held within six (6) months of April 21, 2000. The commission shall meet at least biennially thereafter,]~~ or upon the call of either co-chair, the request of four (4) or more members, or the request of the Governor.

(2) The commission shall receive, integrate, and report~~[, as required by subsection (5) of this section,]~~ the findings and recommendations of the regional planning councils ***and may establish work groups to develop statewide recommendations from information and recommendations received from the regional planning councils*** established under KRS 210.506. ***The commission may request the regional planning councils to provide additional information or study of particular issues designated by the commission.***

(3) The commission shall serve in an advisory capacity to accomplish the following:

(a) Based on information provided under subsection (2) of this section:

1. Assess the ***treatment*** needs statewide of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;

2. Assess the ***treatment*** capabilities of the existing statewide treatment delivery system including gaps in services and the adequacy of a safety net system; and

3. Assess the coordination and collaboration of efforts between public and private facilities and entities***, including but not limited to the Council on Postsecondary Education when assessing workforce issues***, and the roles of the Department for Mental Health and Mental Retardation and the regional community mental health centers, state hospitals, and other ***mental health*** providers;

(b) Identify funding needs and related fiscal impact, including Medicaid reimbursement, limitations under government programs and private insurance, and adequacy of indigent care;

(c) Recommend comprehensive and integrated programs for providing mental health and ***alcohol and drug***~~[substance]~~

abuse ***treatment*** services ***that utilize school*** and[~~ preventive education to children and youth, utilizing~~] community resources;

(d) Develop recommendations to decrease the incidence of ***repeated arrests, incarceration, and*** multiple hospitalizations of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses; and

(e) Recommend an effective quality assurance and consumer satisfaction monitoring program that includes recommendations as to the appropriate role of persons with mental illness, alcohol and other drug abuse disorders, and dual diagnoses, family members, providers, and advocates in quality assurance efforts.

(4) The commission shall develop a comprehensive state plan that ***provides***[~~will provide~~] a template for decision-making regarding ***treatment*** program development, funding, and the use of state resources for delivery of the most effective continuum of services in integrated statewide settings appropriate to the needs of the individual with mental illness, alcohol and other drug abuse disorders, and dual diagnoses. ***The state plan shall also include strategies for increasing public awareness and reducing the stigma associated with mental illness and alcohol and drug abuse disorders.***

(5) [~~Within six (6) months after receiving reports and recommendations from the regional planning councils established under KRS 210.506, the co-chairs of the commission shall present the plan to the Governor and the members of the General Assembly.~~]The state plan shall[~~:~~

~~(a)~~] advise the Governor and the General Assembly concerning the ***treatment*** needs statewide of individuals with mental illness, alcohol and other drug disorders, and dual diagnoses[~~;~~] and[

~~(b) Advise the Governor and the General Assembly on~~] whether the recommendations should be implemented by administrative regulations or proposed legislation for the [~~2002~~]General Assembly.

(6) ***The commission shall develop a two (2) year work plan, beginning in 2002, that specifies goals and strategies relating to services and supports for individuals with mental illness and alcohol and other drug abuse disorders and dual diagnoses and efforts to reduce stigma associated with mental illness and alcohol and drug abuse disorders, and dual diagnoses.***

(7) The commission shall review the plan[~~ annually~~] and shall submit annual updates no later than October 1 to the Governor***,*** ***the Kentucky Agency for Substance Abuse Policy,*** and the Legislative Research Commission.

(8) Prior to October 1, 2002, the commission shall develop a performance-based reporting system that includes benchmarks and methods of measuring performance and shall report on the system developed to the Interim Joint Committee on Health and Welfare.

(9) To assist the commission in the performance of its duties, the Cabinet for Health Services shall honor requests for information from the commission[

~~(7) The commission shall cease to exist four (4) years after April 21, 2000, unless otherwise reauthorized by the General Assembly~~].

Section 6. KRS 210.506 is amended to read as follows:

(1) The regional community mental health-mental retardation boards established under KRS 210.370 shall institute regional planning councils for the purpose of conducting assessment and strategic planning ***for the provision of mental health treatment and prevention and treatment services for alcohol and other drug abuse disorders and dual diagnoses***. The councils shall be attached to the community mental health-mental retardation boards for administrative purposes.

(2) A member of the regional community mental health-mental retardation board shall serve as chair of the regional planning council.

(3) The board shall issue invitations to join the council to no less than two (2) representatives of each of the following groups:

(a) Family members of adults***, older adults,*** and children with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;

(b) Consumers of mental health and substance abuse services;

(c) County officials and business leaders;

(d) Health departments and primary care physicians;

(e) Advocates and community organizations;

(f) Educators and school personnel;

(g) Regional interagency councils established under KRS Chapter 200;

(h) Law enforcement and court personnel;

(i) Public and private ***organizations, agencies, or*** facilities that provide services for mental health and substance abuse ***to the population groups of older adults, and children*** in the region ***that represent***[~~representing~~] inpatient services, outpatient services, residential services, and community-based supportive housing programs;[~~ and~~]

(j) Individuals who provide mental health and substance abuse services ***to the population groups of older adults, and children*** in the region***; and***

(k) Public and private hospitals that provide mental health and substance abuse services.

Section 7. KRS 210.509 is amended to read as follows:

(1) The regional planning councils shall meet as often as necessary to accomplish their purpose.

(2) The regional planning councils shall:

(a) Assess in the region the needs of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;

(b) 1. Study the regional mental health and substance abuse treatment delivery system ***and identify specific barriers in each region to accessing services***;

2. Assess the capacity of and gaps in the existing system, including the adequacy of a safety net system ***and the adequacy and availability of the mental health and substance abuse professional workforce in each region***; and

3. Assess the coordination and collaboration of efforts between public and private facilities and entities;

(c) Develop a regional strategy to increase access to community-based services and supports for individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses. The strategies may include:

1. Exploration of the use of community-based treatment programs ***including but not limited to community-based hospitalization***;

2. Access to and funding for the most effective medications;

3. Promotion of family and consumer support groups statewide;[~~ and~~]

4. Reduction of instances of criminalization of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses; ***and***

5. Efforts to increase housing options for persons at risk of institutionalization;

(d) Identify funding needs ***and report to the commission established in Section 4 of this Act about the use of any flexible safety net funding if appropriated by the General Assembly***;

(e) Evaluate***, in conjunction with the Kentucky Agency for Substance Abuse Policy,*** the access of children and youth to mental health and substance abuse ***treatment*** services[~~ and preventive programs~~] within the region, including but not limited to those provided by schools, family resource and youth services centers, public and private mental health and substance abuse providers and facilities, physical health care providers and facilities, the faith community, and community agencies***. To carry out the provisions of this paragraph, the regional planning councils shall consult the local boards created by the Kentucky Agency for Substance Abuse Policy under Section 3 of this Act***;

(f) Collect and evaluate data regarding individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses who experience repeated hospital admissions, involvement with law enforcement, courts, and the judicial system, and repeated referrals from hospitals to community-based services;

(g)[~~ Recommend an effective quality assurance and consumer satisfaction monitoring program; and~~]

~~(h)~~] Make recommendations on each subsection of this section to the ***Kentucky Association for Substance Abuse Policy and the*** commission established under KRS 210.502 ***by May 1 of each odd-numbered year***[~~within eight (8) months of April 21, 2000~~]. These recommendations may be incorporated into the regional annual plans required by KRS 210.400. ***In addition to the recommendations, the regional councils shall provide progress reports and updates on their duties to the Kentucky Association for Substance Abuse Policy and the commission every six (6) months, with the first progress reports and updates to be given six (6) months following the effective date of this Act.***

[~~(3) The regional councils shall cease to exist four (4) years after April 21, 2000, unless otherwise authorized by the General Assembly.~~]

Section 8. KRS 210.040 is amended to read as follows:

The Cabinet for Health Services shall:

(1) Exercise all functions of the state in relation to the administration and operation of the state institutions for the care and treatment of persons with mental illness;

(2) Establish or acquire, in accordance with the provisions of KRS 56.440 to 56.550, other or additional facilities for psychiatric care and treatment of persons who are or may become state charges;

(3) Cooperate with other state agencies for the development of a statewide mental health program looking toward the prevention of mental illness and the post-institutional care of persons released from public or private mental hospitals;

(4) Provide for the custody, maintenance, care, and medical and psychiatric treatment of the patients of the institutions operated by the cabinet;

(5) Provide psychiatric consultation for the state penal and correctional institutions, and for the state institutions operated for children or for persons with mental retardation;

(6) Administer and supervise programs for the noninstitutional care of persons with mental illness;

(7) Administer and supervise programs for the care of persons with chronic mental illness, including but not limited to provision of the following:

(a) Identification of persons with chronic mental illness residing in the area to be served;

(b) Assistance to persons with chronic mental illness in gaining access to essential mental health services, medical and rehabilitation services, employment, housing and other support services designed to enable persons with chronic mental illness to function outside inpatient institutions to the maximum extent of their capabilities;

(c) Establishment of community-based transitional living facilities with twenty-four (24) hour supervision and community-based cooperative facilities with part-time supervision; provided that, no more than either one (1) transitional facility or one (1) cooperative facility may be established in a county containing a city of the first class with any funds available to the cabinet;

(d) Assurance of the availability of a case manager for each person with chronic mental illness to determine what services are needed and to be responsible for their provision;[~~ and~~]

(e) Coordination of the provision of mental health and related support services with the provision of other support services to persons with chronic mental illness;

(8) ***Require all mental health and substance abuse treatment providers who receive public funds through state contracts, state grants, or reimbursement for services provided to have formalized quality assurance and quality improvement processes including but not limited to a grievance procedure; and***

(9) Supervise private mental hospitals receiving patients committed by order of a court.

Section 9. KRS 222.211 is amended to read as follows:

(1) The cabinet shall, in conjunction with KY-ASAP ***and the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses,*** and in furtherance of the strategic plan developed in KRS 12.332 ***and any plan developed under Section 5 of this Act***, coordinate matters affecting tobacco addiction and alcohol and other drug abuse in the Commonwealth and shall assure that there is the provision of prevention, intervention, and treatment services for both juveniles and adults to address the problems of tobacco addiction and alcohol and other drug abuse within individuals, families, and communities; that the coordination of these matters shall be done in cooperation with public and private agencies, business, and industry; and that technical assistance, training, and consultation services shall be provided within budgetary limitations when required. The cabinet may promulgate administrative regulations under KRS Chapter 13A to carry out its powers and duties under this chapter. The cabinet shall utilize community mental health centers and existing facilities and services within the private sector when possible. The cabinet shall be responsible for assuring that the following services are available:

(a) Primary prevention services directed to the general population and identified target groups for the purposes of avoiding the onset of tobacco addiction and alcohol and other drug abuse related problems and enhancing the general level of health of the target groups. The purpose of the services shall be to provide individuals with the information and skills necessary to make healthy decisions regarding the use or nonuse of tobacco, alcohol, and other drugs as well as to influence environmental factors, such as social policies and norms which will support healthy lifestyle;

(b) Intervention services for the purpose of identifying, motivating, and referring individuals in need of tobacco addiction and alcohol and other drug abuse education or treatment services. Services may be provided in settings such as industry and business, schools, health, and social service agencies;

(c) Detoxification services on a twenty-four (24) hour basis in or near population centers which meet the immediate medical and physical needs of persons intoxicated from the use of alcohol or drugs, or both, including necessary diagnostic and referral services. The services shall be provided in either a hospital or a licensed alcohol and other drug abuse program;

(d) Rehabilitation services offered on an inpatient or outpatient basis for the purposes of treating an individual's alcohol and other drug abuse problem. The services shall be provided in a licensed alcohol and other drug abuse program;

(e) Therapeutic services to family members of alcohol and other drug abusers for the purpose of reducing or eliminating dysfunctional behavior that may occur within individuals who are emotionally, socially, and sometimes physically dependent on an alcohol or other drug abuser. The services shall be offered primarily on a outpatient basis;

(f) Inpatient psychiatric services for those alcohol and other drug abusers whose diagnosis reflects both serious mental health disturbances as well as alcohol and other drug abuse disorders;

(g) Training programs for personnel working in the field of prevention, intervention, and treatment of tobacco addiction and alcohol and other drug abuse problems; and

(h) Driving under the influence services to include assessment, education, and treatment for persons convicted of operating a motor vehicle, while under the influence of alcohol or other substance which may impair driving ability, pursuant to KRS Chapter 189A.

(2) The cabinet shall comply with all policy recommendations of KY-ASAP, and shall honor requests for information from the Kentucky Agency for Substance Abuse Policy created under KRS 12.330.

The Committee Substitute to **SB 2** is as follows:

SB 2, AN ACT relating to planning for tobacco and substance abuse prevention and services to individuals with mental illness, alcohol and other drug disorders, and dual diagnoses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.330 is amended to read as follows:

(1) As used in KRS 12.330 to 12.334, "KY-ASAP" means the Kentucky Agency for Substance Abuse Policy.

(2) The Kentucky Agency for Substance Abuse Policy is created and attached for administrative purposes to the Office of the Governor. KY-ASAP shall be headed by an executive director with experience in overseeing ***prevention and education*** programs involving tobacco and substance abuse and shall have other staff as necessary to conduct its affairs.

(3) KY-ASAP shall administer an endowment from interest generated through funds appropriated or gifts, donations, or funds received from any source. KY-ASAP may expend endowment principal, if necessary in its discretion, to carry out the purposes of KRS 12.330 to 12.334. These expenditures from the endowment principal are hereby appropriated for this purpose.

(4) (a) The[~~ eighteen (18) member~~] KY-ASAP Board is created to oversee the activities of KY-ASAP. Membership of the board shall be appointed by the Governor and shall consist of the following:

1. One (1) member representing the Kentucky Family Resource Youth Services Coalition[~~, or a designee~~];
2. ***The director of the Office of Family Resource and Youth Services Centers;***
3. One (1) member representing the Kentucky Health Department Association, or a designee;
4.[~~3.~~] The secretary of the Cabinet for Health Services[~~, or designee~~];
5.[~~4.~~] The secretary of the Justice Cabinet[~~, or a designee~~];
6.[~~5.~~] The secretary of the Cabinet for Families and Children[~~, or a designee~~];
7.[~~6.~~] One (1) member representing the Division of Substance Abuse within the Department for Mental Health and Mental Retardation Services, Cabinet for Health Services[~~, or a designee~~];
8.[~~7.~~] The commissioner of the Department for Public Health, Cabinet for Health Services[~~, or a designee~~];
9.[~~8.~~] The commissioner of the Department of Alcoholic Beverage Control[~~, or a designee~~];
10.[~~9.~~] The commissioner of the Department of Education;
11. The commissioner of the Department of Agriculture;
12. The commissioner of the Department of Local Government;
13.[~~10.~~] The director of the Administrative Office of the Courts[~~, or a designee~~];
14.[~~11.~~] ***A person who is a chairperson of a regional planning council established under KRS 210.506 who currently serves as a member of the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Disorders, and Dual Diagnoses established under KRS 210.502;***
15. One (1) member representing the Kentucky Association of Regional Programs, or a designee;
16.[~~12.~~] One (1) member representing the Kentucky Heart Association[~~, or a designee~~];
17.[~~13.~~] One (1) member representing the Kentucky Lung Association[~~, or a designee~~];
18.[~~14.~~] One (1) member representing the Kentucky Cancer Society[~~, or a designee~~];
19. Two (2) members, one (1) representing the distilled spirits industry and one (1) representing the malt beverage industry, who are knowledgeable about the respective industry's efforts regarding underage drinking and prevention of alcohol abuse;
20. One (1) representative from each of the following organizations: Kentucky Youth Advocates, Kentucky Congress of Parent Teacher Associations, Kentucky Association of School Health, and Kentucky ACTION;
21. One (1) youth representative who is a member of a tobacco control or smoking cessation program or organization;
22.[~~15.~~] Two (2) members representing local tobacco addiction and substance abuse advisory and

coordination boards;[~~ and~~]

23.[~~16.~~] Two (2) members ***each of whom represent one (1)***[~~representing~~] private community-based ***organization***[~~organizations~~], whether for-profit or nonprofit, with experience in programs involving smoking cessation or prevention or alcohol or substance abuse prevention***;*** and[~~ treatment~~]

24. One (1) member of the Senate appointed by the President of the Senate and one (1) member of the House of Representatives appointed by the Speaker of the House. The appointments shall be made from legislative members who currently serve as a member of the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Disorders, and Dual Diagnoses established under KRS 210.502.

Any association, agency, or organization that is entitled to be represented on the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses and the Kentucky Agency for Substance Abuse Policy shall be represented by the same individual on both entities. If a designee is appointed to serve as a substitute for the person holding an office, the designee shall be the same person who represents that office on the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses.

(b) Members shall serve for a term of four (4) years, may be reappointed, and may serve no more than two (2) consecutive terms. Members shall not be compensated but shall receive reimbursement for expenses incurred while performing board business.

(c) The board shall meet at least quarterly. A quorum of ***sixteen (16)***[~~ten (10)~~] members shall be required for the transaction of business. Meetings shall be held at the call of the chair, or upon the written request of two (2) members to the chair.

(d) The board shall:

1. Oversee deposits and expenditures from the endowment;
2. Request, in its discretion, an audit relating to the expenditure of endowment funds;
3. Receive quarterly reports from the executive director regarding KY-ASAP's activities;
4. Progress toward development and implementation of the strategic plan;
5. Recommend to KY-ASAP the most efficient means for using public funds to coordinate, supplement, and support high quality and ongoing programs of all public agencies and private service providers related to smoking cessation and prevention and alcohol and substance abuse prevention and ***the manner within which these programs affect*** treatment;
6. Recommend matters for review and analysis by KY-ASAP; and
7. Perform other duties as necessary for the oversight of KY-ASAP.

(5) KY-ASAP shall promote the implementation of research-based strategies that target Kentucky's youth and adult populations.

(6) KY-ASAP shall vigorously pursue the philosophy that tobacco in the hands of Kentucky's youth is a drug abuse problem because of the addictive qualities of nicotine, and because tobacco is the most prevalent gateway drug that leads to later and escalated drug and alcohol abuse.

Section 2. KRS 12.332 is amended to read as follows:

KY-ASAP shall:

(1) Develop a strategic plan to reduce the prevalence of smoking and drug and alcohol abuse among both the youth and adult populations in Kentucky;

(2) Monitor the data and issues related to youth alcohol and tobacco access, smoking cessation and prevention, and substance abuse ***prevention and education*** policies, their impact on state and local programs, and their flexibility to adapt to the needs of local communities and ***prevention and education programs***[~~service providers~~];

(3) Make policy recommendations to be followed to the extent permitted by budgetary restrictions and federal law, by executive branch agencies that work with smoking cessation and prevention and alcohol and substance abuse ***prevention and education*** issues to ensure the greatest efficiency in agencies and to ensure that a consistency in philosophy will be applied to all efforts undertaken by the administration in initiatives related to smoking cessation and prevention and alcohol and substance abuse;

(4) Identify existing resources in each community that advocate or implement programs for smoking cessation or prevention, or drug and alcohol abuse prevention ***and***[~~,~~] education[~~, or treatment~~];

(5) Encourage coordination among public and private, state and local, agencies, organizations, and service providers, and monitor related programs;

(6) Act as the referral source of information, utilizing existing information clearinghouse resources within the Department for Public Health and CHAMPIONS for a Drug Free Kentucky Office, relating to youth tobacco access, smoking cessation and prevention, and substance abuse prevention ***and education***[~~, cessation, and treatment~~] programs. KY-ASAP shall

identify gaps in information referral sources;

(7) Search for grant opportunities for existing programs within the Commonwealth;

(8) Make recommendations to state and local agencies and local tobacco addiction and substance abuse advisory and coordination boards;

(9) Observe programs from other states;

(10) Coordinate services among local and state agencies, including, but not limited to, the Justice Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, ***the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses,*** the Department of Agriculture, ***the Department for Local Government,*** the Public Protection and Regulation Cabinet, the Administrative Office of the Courts, and the Education, Arts, and Humanities Cabinet;

(11) Assure the availability of training, technical assistance, and consultation to local ~~[service]~~providers for ***prevention*** programs funded by the Commonwealth that provide services related to tobacco addiction, smoking cessation or prevention, or alcohol or substance abuse ***prevention and education***;

(12) Review existing research on programs related to smoking cessation and prevention and substance abuse prevention and ***education***~~[treatment]~~;

(13) Comply with any federal mandate regarding smoking cessation and prevention and substance abuse ***prevention and education***, to the extent authorized by state statute;

(14) Establish a mechanism to coordinate the distribution of funds to support any local prevention~~[, treatment,]~~ and education program based on the strategic plan developed in subsection (1) of this section that could encourage smoking cessation and prevention through efficient, effective, and research-based strategies;

(15) Oversee a school-based initiative that links schools with community-based agencies and health departments to implement School Programs to Prevent Tobacco Use, based upon the model recommended by the Centers for Disease Control and Prevention. To the extent permitted by resources, the initiative shall involve input by and services from each of the family resource and youth services centers, regional prevention centers, and existing school-based antidrug programs;

(16) Work with community-based organizations to encourage them to work together to establish comprehensive tobacco addiction and substance abuse prevention education programs and carry out the strategic plan developed in this section. These organizations shall be encouraged to partner with district and local health departments and community mental health centers to plan and implement interventions to reach youths before tobacco addiction and substance abuse become a problem in their lives;

(17) Coordinate media campaigns designed to demonstrate the negative impact of smoking and the increased risk of tobacco addiction, substance abuse, and the development of other disease in children, young people, and adults. To accomplish this objective, KY-ASAP shall work with local media to reach all segments of the community quickly and efficiently;

(18) Certify to the Governor and the General Assembly during the budget request process established under KRS Chapter 48 the extent to which each entity receiving state funds has cooperated with KY-ASAP, coordinated with community resources, and vigorously pursued the philosophy of KY-ASAP;

(19) ***Prior to October 1, 2002, the agency shall adopt a performance-based reporting system that includes benchmarks and methods of measuring performance and report on the system adopted to the Interim Joint Committee on Health and Welfare;***

(20) To carry out the provisions of this section, the local boards shall consult in their respective areas with the regional planning councils established under KRS 210.506;

(21) Promulgate any administrative regulations necessary to implement KRS 12.330 to 12.334; and

(22)~~[(20)]~~ Report ***annually*** to the Legislative Research Commission and Governor by October 1 ***of each year***~~[, 2000,]~~ regarding the proper organization of state government agencies that will provide the greatest coordination of services, and report semiannually to the Legislative Research Commission***, the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses,*** and ***the*** Governor on the proper organization structure, devising and implementing an accountability system to be designed to ensure efficiency and efficacy of services and grants, and on other matters as requested by the Legislative Research Commission and Governor.

Section 3. KRS 12.334 is amended to read as follows:

(1) KY-ASAP shall establish in each county a local tobacco addiction and alcohol and substance abuse advisory and coordination board to assist in planning, overseeing, and coordinating the implementation of local programs related to smoking cessation and prevention and alcohol and substance abuse prevention ***and education***~~[, cessation, and treatment,]~~ although a single board may be established for multiple counties to ensure a comprehensive range of ***coordinated prevention and education programs***~~[services]~~. The board shall assist with the coordination of ***prevention and education*** programs provided by public and private entities. If the existing~~[programs of]~~ private ***prevention and education programs***~~[service providers]~~ are of high quality, KY-ASAP shall concentrate on providing missing elements and support for those providers. The Cabinet for Health Services shall support the communities' efforts.

(2) KY-ASAP shall consult with community leaders to solicit the names of residents from the community to serve on each advisory and coordination board. KY-ASAP shall request from each board the submission of reasonable reports on the effectiveness, efficiency, and efforts of each local program, including recommendations for increased or decreased funding, and KY-ASAP shall supply information as necessary to the advisory and coordination board to enable it to carry out its functions.

(3) KY-ASAP shall provide incentives to encourage multicounty advisory and coordination board requests and shall establish a single board to represent all counties making the request. ***In establishing a board, KY-ASAP shall use, to the fullest extent possible,***[~~Priority in establishing a board shall be given to~~] existing regional prevention centers or coalitions, community organizations, or local Kentucky Incentives for Prevention (KIP) project coalitions. Membership shall consist of residents from each of the counties.

(4) Each advisory and coordination board shall develop a long-term community strategy that is designed to reduce the incidence of youth and young adult smoking and tobacco addiction, promote resistance to smoking, reduce the incidence of substance abuse, and ***advise the regional mental health and mental retardation boards and regional planning councils established under KRS Chapter 210 of suggested methods of promoting***[~~promote~~] effective[~~ treatment of~~] substance abuse ***prevention and education programs***. All county resources, both private and public, for-profit and nonprofit, shall be considered in developing this strategy.

(a) Employers, local leaders, schools, family resource and youth services centers, health care providers and institutions, ***regional mental health and mental retardation boards and regional planning councils,*** economic developers, and other relevant local and regional entities shall be consulted in the development of the strategy.

(b) An assessment of needs and available services shall be included in the strategy.

Section 4. KRS 210.502 is amended to read as follows:

(1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses. The commission shall consist of:

(a) The secretary of the Cabinet for Health Services;

(b) The secretary of the Cabinet for Families and Children;

(c) The secretary of the Justice Cabinet;

(d) The commissioner of the Department for Mental Health and Mental Retardation Services;

(e) The commissioner of the Department for Medicaid Services;

(f) The commissioner of the Department of Corrections;

(g) The commissioner of the Department of Juvenile Justice;

(h) The commissioner of the Department of Education;

(i) The commissioner of the Department of Vocational Rehabilitation;

(j) The director of the Protection and Advocacy Division of the Public Protection and Regulation Cabinet;

(k) ***The director of the Office of Family Resource and Youth Services Centers;***

(l) The executive director of the Office of Aging Services of the Cabinet for Health Services;

(m) The executive director of the Kentucky Agency for Substance Abuse Policy;

(n) The executive director of the Criminal Justice Council;

(o) The director of the Administrative Office of the Courts;

(p) The chief executive officer of the Kentucky Housing Commission;

(q) The executive director of the Office of Transportation Delivery of the Transportation Cabinet;

(r) Three (3) members of the House of Representatives who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Speaker of the House;[~~ and~~]

(s)[~~(l)~~] Three (3) members of the Senate who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Senate President***;***

(t) A person and one (1) alternate who is a chairperson of a regional planning council appointed by the secretary of the Cabinet for Health Services from a list of five (5) chairpersons submitted by the Kentucky Association of Regional Mental Health/Mental Retardation Programs;

(u) A consumer and one (1) alternate who is a consumer of mental health or substance abuse services who are over age eighteen (18) appointed by the secretary of the Cabinet for Health Services from a list of up to three (3) consumers submitted by any consumer advocacy organization operating within Kentucky; and

(v) An adult family member and one (1) alternate who is an adult family member of a consumer of mental health or substance abuse services appointed by the secretary of the Cabinet for Health Services from a list of up to three (3) persons submitted by any family advocacy organization operating within Kentucky.

Any association, agency, or organization that is entitled to be represented on the Kentucky Commission on Services

and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses and the Kentucky Agency for Substance Abuse Policy shall be represented by the same individual on both entities. If a designee is appointed to serve as a substitute for the person holding an office, the designee shall be the same person who represents that office on the Kentucky Agency for Substance Abuse Policy.

(2) The secretary of the Cabinet for Health Services and one (1) member of the General Assembly appointed to the commission shall serve as co-chairs of the commission.

(3) Members ***designated in paragraphs (a) to (s) of subsection (1) of this section*** shall serve during their terms of office.

(4) Members and alternates designated in paragraphs (t) to (v) of subsection (1) of this section shall serve a term of two (2) years and may be reappointed for one (1) additional term. These members may be reimbursed for travel expenses in accordance with administrative regulations governing reimbursement for travel for state employees.

Section 5. KRS 210.504 is amended to read as follows:

(1) The commission created in KRS 210.502 shall meet as often as necessary to accomplish its purpose but shall meet at least quarterly[~~ during the 2000-2001 biennium, and the first meeting shall be held within six (6) months of April 21, 2000. The commission shall meet at least biennially thereafter,~~] or upon the call of either co-chair, the request of four (4) or more members, or the request of the Governor.

(2) The commission shall receive, integrate, and report[~~, as required by subsection (5) of this section,~~] the findings and recommendations of the regional planning councils ***and may establish work groups to develop statewide recommendations from information and recommendations received from the regional planning councils*** established under KRS 210.506. ***The commission may request the regional planning councils to provide additional information or study of particular issues designated by the commission.***

(3) The commission shall serve in an advisory capacity to accomplish the following:

(a) Based on information provided under subsection (2) of this section:

1. Assess the needs statewide of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;

2. Assess the capabilities of the existing statewide[~~ treatment~~] delivery system including gaps in services and the adequacy of a safety net system; and

3. Assess the coordination and collaboration of efforts between public and private facilities and entities***,*** ***including but not limited to the Council on Postsecondary Education when assessing workforce issues,*** and the roles of the Department for Mental Health and Mental Retardation and the regional community mental health centers, state hospitals, and other ***mental health*** providers;

(b) Identify funding needs and related fiscal impact, including Medicaid reimbursement, limitations under government programs and private insurance, and adequacy of indigent care;

(c) Recommend comprehensive and integrated programs for providing mental health and ***alcohol and drug***[~~substance~~] abuse ***treatment*** services ***that utilize school*** and[~~ preventive education to children and youth, utilizing~~] community resources;

(d) Develop recommendations to decrease the incidence of ***repeated arrests, incarceration, and*** multiple hospitalizations of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses; and

(e) Recommend an effective quality assurance and consumer satisfaction monitoring program that includes recommendations as to the appropriate role of persons with mental illness, alcohol and other drug abuse disorders, and dual diagnoses, family members, providers, and advocates in quality assurance efforts.

(4) The commission shall develop a comprehensive state plan that ***provides***[~~will provide~~] a template for decision-making regarding program development, funding, and the use of state resources for delivery of the most effective continuum of services in integrated statewide settings appropriate to the needs of the individual with mental illness, alcohol and other drug abuse disorders, and dual diagnoses. ***The state plan shall also include strategies for increasing public awareness and reducing the stigma associated with mental illness and alcohol and drug abuse disorders and dual diagnoses.***

(5) [~~Within six (6) months after receiving reports and recommendations from the regional planning councils established under KRS 210.506, the co-chairs of the commission shall present the plan to the Governor and the members of the General Assembly.~~]The state plan shall[~~:~~

~~(a)~~] advise the Governor and the General Assembly concerning the needs statewide of individuals with mental illness, alcohol and other drug disorders, and dual diagnoses[~~;~~] and[

~~(b) Advise the Governor and the General Assembly on~~] whether the recommendations should be implemented by administrative regulations or proposed legislation for the [~~2002~~]General Assembly.

(6) ***The commission shall develop a two (2) year work plan, beginning in 2002, that specifies goals and strategies relating to services and supports for individuals with mental illness and alcohol and other drug abuse disorders and dual diagnoses and efforts to reduce stigma associated with mental illness and alcohol and drug abuse disorders, and dual diagnoses.***

(7) The commission shall review the plan[~~ annually~~] and shall submit annual updates no later than October 1 to the Governor***,*** ***the Kentucky Agency for Substance Abuse Policy,*** and the Legislative Research Commission.

(8) Prior to October 1, 2002, the commission shall adopt a performance-based reporting system that includes benchmarks and methods of measuring performance and shall report on the system adopted to the Interim Joint Committee on Health and Welfare.

(9) To assist the commission in the performance of its duties, the Cabinet for Health Services and all state agencies represented on the commission shall honor requests for information from the commission[

~~(7) The commission shall cease to exist four (4) years after April 21, 2000, unless otherwise reauthorized by the General Assembly~~].

Section 6. KRS 210.506 is amended to read as follows:

(1) The regional community mental health-mental retardation boards established under KRS 210.370 shall institute regional planning councils for the purpose of conducting assessment and strategic planning ***for the provision of prevention and treatment services for mental health, alcohol and other drug abuse disorders, and dual diagnoses***. The councils shall be attached to the community mental health-mental retardation boards for administrative purposes.

(2) A member of the regional community mental health-mental retardation board shall serve as chair of the regional planning council.

(3) The board shall issue invitations to join the council to no less than two (2) representatives of each of the following groups:

- (a) Family members of adults***, older adults,*** and children ***and youth*** with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;
- (b) Consumers of mental health and substance abuse services;
- (c) County officials and business leaders;
- (d) Health departments and primary care physicians;
- (e) Advocates and community organizations;
- (f) Educators and school personnel;
- (g) Regional interagency councils established under KRS Chapter 200;
- (h) Law enforcement and court personnel;
- (i) Public and private ***organizations, agencies, or*** facilities that provide services for mental health and substance abuse ***to the population groups of adults, older adults, and children and youth*** in the region ***that represent***[~~representing~~] inpatient services, outpatient services, residential services, and community-based supportive housing programs;[~~ and~~]
- (j) Individuals who provide mental health and substance abuse services ***to the population groups of adults, older adults, and children and youth*** in the region***; and***
- ***(k) Public and private hospitals that provide mental health and substance abuse services***.

Section 7. KRS 210.509 is amended to read as follows:

(1) The regional planning councils shall meet as often as necessary to accomplish their purpose.

(2) The regional planning councils shall:

- (a) Assess in the region the needs of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;
- (b) 1. Study the regional mental health and substance abuse treatment delivery system ***and identify specific barriers in each region to accessing services***;
  - 2. Assess the capacity of and gaps in the existing system, including the adequacy of a safety net system ***and the adequacy and availability of the mental health and substance abuse professional workforce in each region***; and
  - 3. Assess the coordination and collaboration of efforts between public and private facilities and entities;
- (c) Develop a regional strategy to increase access to community-based services and supports for individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses. The strategies may include:
  - 1. Exploration of the use of community-based treatment programs ***including but not limited to community-based hospitalization***;
  - 2. Access to and funding for the most effective medications;
  - 3. Promotion of family and consumer support groups statewide;[~~ and~~]
  - 4. Reduction of instances of criminalization of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses; ***and***
  - ***5. Efforts to increase housing options for persons at risk of institutionalization;***

(d) Identify funding needs ***and report to the commission established in Section 4 of this Act about the use of any flexible safety net funding if appropriated by the General Assembly***;

(e) Evaluate the access of children and youth to mental health and substance abuse ***treatment*** services and preventive programs within the region, including but not limited to those provided by schools, family resource and youth services centers, public and private mental health and substance abuse providers and facilities, physical health care providers and facilities, the faith community, and community agencies***. To carry out the provisions of this paragraph related to substance abuse prevention programs, the regional planning councils shall consult the local boards in their areas created by the Kentucky Agency for Substance Abuse Policy under Section 3 of this Act***;

(f) Collect and evaluate data regarding individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses who experience repeated hospital admissions, involvement with law enforcement, courts, and the judicial system, and repeated referrals from hospitals to community-based services;

(g)[~~Recommend an effective quality assurance and consumer satisfaction monitoring program; and~~

~~(h)~~] Make recommendations on each subsection of this section to the commission established under KRS 210.502 ***by May 1 of each odd-numbered year***[~~within eight (8) months of April 21, 2000~~]. These recommendations may be incorporated into the regional annual plans required by KRS 210.400. ***Each regional council shall share its report and recommendations with the local board in its respective area created by the Kentucky Agency for Substance Abuse Policy under KRS 12.334.***

[~~(3) The regional councils shall cease to exist four (4) years after April 21, 2000, unless otherwise authorized by the General Assembly.~~]

Section 8. KRS 210.040 is amended to read as follows:

The Cabinet for Health Services shall:

(1) Exercise all functions of the state in relation to the administration and operation of the state institutions for the care and treatment of persons with mental illness;

(2) Establish or acquire, in accordance with the provisions of KRS 56.440 to 56.550, other or additional facilities for psychiatric care and treatment of persons who are or may become state charges;

(3) Cooperate with other state agencies for the development of a statewide mental health program looking toward the prevention of mental illness and the post-institutional care of persons released from public or private mental hospitals;

(4) Provide for the custody, maintenance, care, and medical and psychiatric treatment of the patients of the institutions operated by the cabinet;

(5) Provide psychiatric consultation for the state penal and correctional institutions, and for the state institutions operated for children or for persons with mental retardation;

(6) Administer and supervise programs for the noninstitutional care of persons with mental illness;

(7) Administer and supervise programs for the care of persons with chronic mental illness, including but not limited to provision of the following:

(a) Identification of persons with chronic mental illness residing in the area to be served;

(b) Assistance to persons with chronic mental illness in gaining access to essential mental health services, medical and rehabilitation services, employment, housing and other support services designed to enable persons with chronic mental illness to function outside inpatient institutions to the maximum extent of their capabilities;

(c) Establishment of community-based transitional living facilities with twenty-four (24) hour supervision and community-based cooperative facilities with part-time supervision; provided that, no more than either one (1) transitional facility or one (1) cooperative facility may be established in a county containing a city of the first class with any funds available to the cabinet;

(d) Assurance of the availability of a case manager for each person with chronic mental illness to determine what services are needed and to be responsible for their provision;[~~ and~~]

(e) Coordination of the provision of mental health and related support services with the provision of other support services to persons with chronic mental illness;

(8) ***Require all mental health and substance abuse treatment providers who receive public funds through state contracts, state grants, or reimbursement for services provided to have formalized quality assurance and quality improvement processes including but not limited to a grievance procedure; and***

(9) Supervise private mental hospitals receiving patients committed by order of a court.

Section 9. KRS 222.211 is amended to read as follows:

(1) The cabinet shall, in conjunction with KY-ASAP ***and the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses***, and in furtherance of the strategic plan developed in KRS 12.332 ***and any plan developed under Section 5 of this Act***, coordinate matters

affecting tobacco addiction and alcohol and other drug abuse in the Commonwealth and shall assure that there is the provision of prevention, intervention, and treatment services for both juveniles and adults to address the problems of tobacco addiction and alcohol and other drug abuse within individuals, families, and communities; that the coordination of these matters shall be done in cooperation with public and private agencies, business, and industry; and that technical assistance, training, and consultation services shall be provided within budgetary limitations when required. The cabinet may promulgate administrative regulations under KRS Chapter 13A to carry out its powers and duties under this chapter. The cabinet shall utilize community mental health centers and existing facilities and services within the private sector when possible. The cabinet shall be responsible for assuring that the following services are available:

(a) Primary prevention services directed to the general population and identified target groups for the purposes of avoiding the onset of tobacco addiction and alcohol and other drug abuse related problems and enhancing the general level of health of the target groups. The purpose of the services shall be to provide individuals with the information and skills necessary to make healthy decisions regarding the use or nonuse of tobacco, alcohol, and other drugs as well as to influence environmental factors, such as social policies and norms which will support healthy lifestyle;

(b) Intervention services for the purpose of identifying, motivating, and referring individuals in need of tobacco addiction and alcohol and other drug abuse education or treatment services. Services may be provided in settings such as industry and business, schools, health, and social service agencies;

(c) Detoxification services on a twenty-four (24) hour basis in or near population centers which meet the immediate medical and physical needs of persons intoxicated from the use of alcohol or drugs, or both, including necessary diagnostic and referral services. The services shall be provided in either a hospital or a licensed alcohol and other drug abuse program;

(d) Rehabilitation services offered on an inpatient or outpatient basis for the purposes of treating an individual's alcohol and other drug abuse problem. The services shall be provided in a licensed alcohol and other drug abuse program;

(e) Therapeutic services to family members of alcohol and other drug abusers for the purpose of reducing or eliminating dysfunctional behavior that may occur within individuals who are emotionally, socially, and sometimes physically dependent on an alcohol or other drug abuser. The services shall be offered primarily on a outpatient basis;

(f) Inpatient psychiatric services for those alcohol and other drug abusers whose diagnosis reflects both serious mental health disturbances as well as alcohol and other drug abuse disorders;

(g) Training programs for personnel working in the field of prevention, intervention, and treatment of tobacco addiction and alcohol and other drug abuse problems; and

(h) Driving under the influence services to include assessment, education, and treatment for persons convicted of operating a motor vehicle, while under the influence of alcohol or other substance which may impair driving ability, pursuant to KRS Chapter 189A.

(2) The cabinet shall comply with all policy recommendations of KY-ASAP, and shall honor requests for information from the Kentucky Agency for Substance Abuse Policy created under KRS 12.330.

(3) All state agencies represented on KY-ASAP shall honor requests for information from the Kentucky Agency for Substance Abuse Policy created under KRS 12.330.

The Committee on Elections, Constitutional Amendments and Intergovernmental Affairs reported **HB 588,** with Committee Substitute and Committee Amendment attached thereto, **HB 703,** and **SB 128,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 588, AN ACT relating to the benefits of emergency service personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.315 is amended to read as follows:

(1) As used in this section, "police officer" means every paid police officer, sheriff, or deputy sheriff, corrections employee with the power of a peace officer pursuant to KRS 196.037, any auxiliary police officer appointed pursuant to KRS 95.445, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, elected to office, or employed by any county, airport board created pursuant to KRS Chapter 183, city, or by the state; "firefighter" means every paid firefighter or volunteer firefighter who is employed by or volunteers his services to the state, airport board created pursuant to KRS Chapter 183, any county, city, fire district, or any other organized fire department recognized, pursuant to KRS 95A.262, as a fire department operated and maintained on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth. If death benefits are paid under KRS 61.316 to eligible survivors of a volunteer firefighter, then no benefits shall be paid to those survivors under this section.

(2) The spouse of any police officer, sheriff, deputy sheriff, corrections employee with the power of a peace officer pursuant to

KRS 196.037, any auxiliary police officer appointed pursuant to KRS 95.445, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, firefighter, or member of the Kentucky National Guard on state active duty pursuant to KRS 38.030, whose death occurs on or after July 1, ***2002***~~[1991]~~, as a direct result of an act in the line of duty shall receive a lump-sum payment of ***seventy-five thousand dollars ($75,000)***~~[fifty thousand dollars ($50,000)]~~ if there are no surviving children, which sum shall be paid by the State Treasurer from the general expenditure fund of the State Treasury. If there are surviving children and a surviving spouse, the payment shall be apportioned equally among the surviving children and the spouse. If there is no surviving spouse, the payment shall be made to the surviving children, eighteen (18) or more years of age. For surviving children less than eighteen (18) years of age, the State Treasurer shall:

(a) Pay ***thirty thousand dollars ($30,000)***~~[twenty thousand dollars ($20,000)]~~ to the surviving children; and

(b) Hold ***forty-five thousand dollars ($45,000)***~~[thirty thousand dollars ($30,000)]~~ in trust divided into equal accounts at appropriate interest rates for each surviving child until the child reaches the age of eighteen (18) years.

If a child dies before reaching the age of eighteen (18) years, his account shall be paid to his estate. If there are no surviving children, the payment shall be made to any parents of the deceased.

(3) The Commission on Fire Protection Personnel Standards and Education shall be authorized to promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to both paid and volunteer firefighters, including, but not limited to, defining when a firefighter has died in line of duty. Administrative hearings promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.

(4) The Justice Cabinet may promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to police officers, including, but not limited to, defining when a police officer has died in line of duty. Administrative hearings promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.

(5) The Department of Corrections shall promulgate administrative regulations establishing the criteria and procedures applicable to the administration of this section as it pertains to correctional employees, including, but not limited to, defining which employees qualify for coverage and which circumstances constitute death in the line of duty.

(6) The benefits payable under this section shall be in addition to any benefits now or hereafter prescribed under any police, sheriff, firefighter's, or National Guard retirement or benefit fund established by the federal government or by any state, county, or any municipality.

(7) Any funds appropriated for the purpose of paying the death benefits described in subsection (2) of this section shall be allotted to a self-insuring account. These funds shall not be used for the purpose of purchasing insurance.

Section 2. KRS 61.316 is amended to read as follows:

(1) "Volunteer firefighter," as used in this section, means any person who is a member of or employed by a volunteer fire department of any county, city, fire district, or other organized volunteer fire department operated and maintained on a nonprofit basis in the interest of health and safety of the inhabitants of the Commonwealth.

(2) The spouse of any volunteer firefighter whose death occurs ***on or after July 1, 2002,*** as a direct result of an act in the line of duty shall receive a lump sum payment of ***seventy-five thousand dollars ($75,000)***~~[twenty-five thousand dollars ($25,000)]~~, which sum shall be paid by the State Treasurer from the insurance premium surcharge moneys provided in KRS 136.392. If there is no surviving spouse, the payment shall be made to the surviving children. If there are no surviving children, the payment shall be made to any dependent parent of the deceased.

(3) The Commission on Fire Protection Personnel Standards and Education shall be authorized to promulgate and adopt regulations establishing procedures and criteria applicable to the administration of this section including, but not limited to, defining when a firefighter dies in line of duty.

SECTION 3. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

(1) If a firefighter as defined in Section 1 of this Act is permanently and totally disabled as defined in KRS 342.0011 as a direct result of activities in the line of duty, then the firefighter shall be entitled to receive a monthly payment to be paid by the Commission on Fire Protection Personnel Standards and Education of:

(a) Two hundred dollars ($200) to help defray the costs of life insurance; and

(b) Two hundred dollars ($200) to help defray the costs of health insurance.

(2) In order to receive the monthly payment, the firefighter must present to the Commission on Fire Protection Personnel Standards and Education:

(a) A written statement from the fire chief of the fire department under whose command the firefighter was at the time of injury stating the fact that the firefighter was on active duty and on assignment with that fire department when the injury occurred; and

(b) A written statement from at least two (2) licensed and practicing physicians stating that the member is totally and likely to be permanently disabled as defined in KRS 342.0011; and

(c) Proof, in a form satisfactory to the commission, that the firefighter has either or both active life and health insurance policies.

(3) (a) If a firefighter, either through a settlement of any kind or through any other source, has life insurance provided at no cost, then the firefighter shall not be eligible to receive the life insurance payment described in subsection (1)(a) of this section. If a firefighter receives partial payment of life insurance, and the portion of the payment that the firefighter is responsible for is less than the amount stated in subsection (1) of this section, then the firefighter shall only receive that portion of the payment to pay for the cost of the insurance.

(b) If a firefighter, either through a settlement of any kind or through any other source, has health insurance provided at no cost, then the firefighter shall not be eligible to receive the health insurance payment described in subsection (1)(b) of this section. If a firefighter receives partial payment of health insurance, and the portion of the payment that the firefighter is responsible for is less than the amount stated in subsection (1) of this section, then the firefighter shall only receive that portion of the payment to pay for the cost of the insurance.

(4) If the firefighter should no longer be considered permanently and totally disabled as defined in KRS 342.0011, or if either or both life and health insurance policies are terminated, then the firefighter shall within thirty (30) days of that determination notify the Commission on Fire Protection Personnel Standards and Education, in writing, of that fact or facts. The commission shall then terminate the appropriate subsequent payments to that firefighter. A firefighter may continue to receive payments for one (1) type of insurance as long as the firefighter is still permanently and totally disabled and the insurance policy is active. If the firefighter fails to notify the commission within thirty (30) days and receives subsequent payments under this section, the firefighter shall be responsible for repaying any payments provided to the firefighter under this section to the commission from the date that the firefighter was no longer considered permanently and totally disabled.

(5) The Commission on Fire Protection Personnel Standards and Education shall promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A establishing procedures and criteria applicable to the administration of this section by December 31, 2002.

(6) Any firefighter convicted of willfully providing false information to receive the benefits in subsection (1) of this section shall be responsible for repaying the total amount paid to the firefighter, plus interest, under the provisions of this section within a time to be determined by the commission. The firefighter shall also be subject to any other applicable penalty of law.

(7) Funds from the Kentucky firefighters disability trust fund as provided in Sections 5 and 6 of this Act shall be used for the purposes of this section. In the event sufficient funds do not exist to cover all the financial obligations of this section, then the payments shall be prorated among the participants evenly.

SECTION 4. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

(1) The Commission on Fire Protection Personnel Standards and Education shall create an injury and disability benefit program for paid firefighters and volunteer firefighters who are injured in the line of duty. The program shall be funded by the Kentucky firefighters' disability program trust fund as provided in Sections 5 and 6 of this Act. Eligible firefighters shall receive payments from this program regardless as to whether or not they are receiving benefits from other programs. No offset provisions of any other laws of the Commonwealth shall apply to this program.

(2) The program shall include but not be necessarily limited to the following categories of disability:

(a) Permanent total disability;

(b) Temporary total disability; and

(c) Permanent partial disability.

(3) Payments from the program shall be disbursed relatively according to the severity and type of the injury as well as the permanency of the injury as indicated in subsection (2) of this section. The commission shall create a schedule of injuries and their commensurate rates and duration of compensation for each. The duration of compensation shall be equitable to the duration of recovery from the injury. The schedule shall be modified when necessary. In the event sufficient funds do not exist to cover all the financial obligations of this section, then the payments shall be prorated among the participants evenly and proportionately.

(4) The maximum monetary benefits paid to a firefighter shall not exceed fifty thousand dollars ($50,000).

(5) The commission shall promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A establishing procedures and criteria of participation in the program applicable to the administration of this section by December 31, 2002.

(6) The firefighter may initiate proceedings under the provisions of KRS Chapter 13B if aggrieved by any decision of the commission. In the event the decision of the commission is reversed by the course of a hearing under the provisions of KRS Chapter 13B or by any appeals process allowed by KRS Chapter 13B, the payment of any counsel retained by the firefighter shall not exceed ten percent (10%) of the subsequent award.

SECTION 5. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Game" means the Kentucky firefighters' disability trust fund benefit game;

(b) "Trust fund" means the Kentucky firefighters' disability program trust fund created in Section 6 of this Act;

and

(c) "Net revenue" means all proceeds received from the sale of game tickets, less prize payouts, reasonable administrative costs, and fees associated with the game as determined by the corporation.

(2) Beginning the first business day of January 2003, the corporation shall establish an instant lottery scratch-off game designated as the Kentucky firefighters' disability trust fund benefit game.

(3) All net revenues received from the sale of game tickets shall initially be deposited with the corporation and then transferred on a monthly basis to the fund.

(4) The corporation shall change the design or theme of the game regularly so that the game remains competitive with the other instant lottery scratch-off games offered by the corporation. Tickets for the game shall clearly state that net revenues from the game are being used for the benefit of firefighters' programs in the Commonwealth of Kentucky.

(5) Net revenues from the game shall be used exclusively for the firefighters' disability programs established under Sections 2, 3, and 4 of this Act administered by the Commission on Fire Protection Personnel Standards and Education.

(6) The corporation shall determine the price of tickets, determine the payout, and make other administrative decisions regarding the game.

SECTION 6. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

(1) There is established and created in the State Treasury a fund entitled the "Kentucky firefighters' disability program trust fund" to provide funds for the firefighters' injury and disability program established under Section 4 of this Act and for the supplemental health and life insurance payments established under Section 3 of this Act. The fund may receive state appropriations, gifts, grants, federal funds, and any other funds both public and private in addition to the primary funding source established in Section 5 of this Act. Moneys deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the Commission on Fire Protection Personnel Standards and Education. Any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9), and any income earned from the investments along with the unallotted or unencumbered balances in the fund shall not lapse and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the Kentucky firefighters' disability program and the supplemental insurance payments established in Section 3 of this Act.

(2) The fund shall be used to support the costs that the Commission on Fire Protection Personnel Standards and Education incur and deem necessary to carry out the provisions of Sections 2, 3, and 4 of this Act.

Section 7. KRS 154A.130 is amended to read as follows:

(1) All money received by the corporation from the sale of lottery tickets and all other sources shall be deposited into a corporate operating account. The corporation is authorized to use all money in the corporate operating account for the purposes of paying prizes and the necessary expenses of the corporation and dividends to the state. The corporation shall allocate the amount to be paid by the corporation to prize winners. The amount in the corporate operating account which the corporation anticipates will be available for the payment of prizes on an annuity basis may be invested in direct United States Treasury obligations. These instruments may be in varying maturities with respect to payment of annuities and may be in book-entry form. Monthly, no later than the last business day of the succeeding month, the corporation shall transfer to a lottery trust fund the amount of net revenues which the corporation determines are surplus to its needs. These funds shall be held in trust until 1990 at which time the General Assembly shall determine the manner in which the funds will be allocated and appropriated. The net revenues shall be determined by deducting from gross revenues the payment costs incurred in the operation and administration of the lottery, including the expenses of the corporation and the costs resulting from any contract or contracts entered into for promotional, advertising, or operational services or for the purchase or lease of lottery equipment and materials, fixed capital outlays, and the payment of prizes to the holders of winning tickets. After the start-up costs are paid, it is the intent of the Legislature that it shall be the goal of the corporation to transfer each year thirty-five percent (35%) of gross revenues to the general fund for the purposes stated above.

(2) A Kentucky lottery trust account is established in the State Treasury. Net lottery revenues shall be credited to this restricted account as provided in subsection (1) of this section. Moneys credited to the Kentucky lottery trust account shall be invested by the state in accordance with state investment practices and all earnings from the investments shall accrue to this account. No moneys shall be allotted or expended from this account unless pursuant to an appropriation by the General Assembly, except ***for funds required to be transferred to the Kentucky firefighters' disability program fund under Section 5 of this Act, and except*** that moneys as are needed shall be transferred to the general fund pursuant to the provisions of the Acts of the Extraordinary Session of the 1988 General Assembly. Moneys in the Kentucky lottery trust account shall not lapse at the close of the state fiscal year.

(3) Beginning in fiscal year 1999-2000, and each fiscal year thereafter, three million dollars ($3,000,000) from net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:

(a) To the Collaborative Center for Literacy Development, one million two hundred thousand dollars ($1,200,000) in fiscal year 1999-2000 and each fiscal year thereafter; and

(b) To the early reading incentive fund, one million eight hundred thousand dollars ($1,800,000) in fiscal year 1999-2000 and each fiscal year thereafter.

All lottery revenues collected under Section 5 of this Act shall be distributed under the provisions of Section 5 of this Act, and no portion of those revenues shall be distributed under the provisions of this section.

(4) After the allocation of three million dollars ($3,000,000) to literacy development, as provided in subsection (3) of this section, *and except as otherwise provided in Section 5 of this Act,* net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:

(a) To the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund established in KRS 164.7877:

1. Seven million dollars ($7,000,000) in fiscal year 1999-2000;
2. Fifteen percent (15%) in fiscal year 2000-2001;
3. Twenty-five percent (25%) in fiscal year 2001-2002;
4. Thirty-two percent (32%) in fiscal year 2002-2003;
5. Forty percent (40%) in fiscal year 2003-2004; and
6. Forty-five percent (45%) in fiscal year 2004-2005 and each fiscal year thereafter; and

(b) To the College Access Program and the Kentucky Tuition Grants Program established in KRS Chapter 164:

1. Fourteen million dollars ($14,000,000) in fiscal year 1998-1999;
2. Fifteen million dollars ($15,000,000) in fiscal year 1999-2000;
3. Thirty-two percent (32%) in fiscal year 2000-2001 through fiscal year 2002-2003;
4. Forty percent (40%) in fiscal year 2003-2004;
5. Forty-five percent (45%) in fiscal year 2004-2005; and
6. Fifty-five percent (55%) of net lottery revenues in fiscal year 2005-2006 and each fiscal year thereafter.

(5) The Auditor of Public Accounts shall be responsible for a financial postaudit of the books and records of the corporation. The postaudit shall be conducted in accordance with generally accepted accounting principles, shall be paid for by the corporation, and shall be completed within ninety (90) days of the close of the corporation's fiscal year. The Auditor of Public Accounts shall contract with an independent, certified public accountant who meets the qualifications existing to do business within the Commonwealth of Kentucky to perform the corporation postaudit. The Auditor of Public Accounts shall remain responsible for the annual postaudit and the corporation shall pay all audit costs. The Auditor of Public Accounts may at any time conduct additional audits, including performance audits, of the corporation as he deems necessary or desirable. Contracts shall be entered into for audit services for a period not to exceed five (5) years and the same firm shall not receive two (2) consecutive audit contracts. All audits shall be filed with the Governor, the President of the Senate, and the Speaker of the House of Representatives. The corporation shall reimburse the Auditor of Public Accounts for the reasonable costs of any audits performed by him. The corporation shall cooperate with the Auditor of Public Accounts by giving employees designated by any of them access to facilities of the corporation for the purpose of efficient compliance with their respective responsibilities. With respect to any reimbursement that the corporation is required to pay to any agency, the corporation shall enter into an agreement with that agency under which the corporation shall pay to the agency an amount reasonably anticipated to cover the reimbursable expenses in advance of the expenses being incurred.

(6) By no later than December 31 of each year, in an advertisement at least one-fourth (1/4) of a page in size, the Kentucky Lottery Corporation shall publish the following information in every general-circulation daily newspaper published in Kentucky:

(a) The statements of revenue, expenses, and changes in retained earnings as shown in the most recent annual audit report. It shall be explained that the transfer of dividends is the amount of lottery earnings transferred to the general fund;

(b) A statement identifying the auditing firm;

(c) A telephone number which citizens may call to obtain a complete copy of the annual audit report; and

(d) The name of the president/chief executive officer of the Kentucky Lottery Corporation and a complete list of board members.

The Kentucky Lottery Corporation shall pay for the cost of the advertisement.

Section 8. KRS 154A.020 is amended to read as follows:

(1) There is hereby created and established a state lottery which shall be administered by an independent, de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a public body corporate and politic to be known as the Kentucky Lottery Corporation. The corporation shall be deemed a public agency within the meaning of KRS 61.805 and 61.870. This corporation shall be managed in such a manner that enables the people of the Commonwealth to benefit from its profits and to enjoy the best possible lottery games. The General Assembly hereby recognizes that the operations of a lottery are unique activities for state government and that a corporate structure will best enable the lottery to be managed in an entrepreneurial and business-like manner. It is the intent of the General Assembly

that government programs and services shall not be mentioned in advertising or promoting a lottery***, except as provided in Section 5 of this Act***. It is also the intent of the General Assembly that the Kentucky Lottery Corporation shall be accountable to the Governor, the General Assembly and the people of the Commonwealth through a system of audits, reports and thorough financial disclosure as required by this chapter.

(2) The existence of the corporation shall begin only upon confirmation of the members of the board by the Senate as provided in KRS 154A.030. Until the time of such confirmation, no business shall be conducted on behalf of the lottery.

(3) Notwithstanding any other provision of law to the contrary, no official action of any form shall be taken by the board at any time unless a majority of the members of the board shall have been confirmed by the Senate as provided in KRS 154A.030. Any action taken on behalf of the lottery when less than a majority of the members of the board shall have been confirmed shall be of no effect.

The Committee Substitute to **HB 588** is as follows:

HB 588, AN ACT relating to the benefits of emergency service personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.315 is amended to read as follows:

(1) As used in this section, "police officer" means every paid police officer, sheriff, or deputy sheriff, corrections employee with the power of a peace officer pursuant to KRS 196.037, any auxiliary police officer appointed pursuant to KRS 95.445, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, elected to office, or employed by any county, airport board created pursuant to KRS Chapter 183, city, or by the state; "firefighter" means every paid firefighter or volunteer firefighter who is employed by or volunteers his services to the state, airport board created pursuant to KRS Chapter 183, any county, city, fire district, or any other organized fire department recognized, pursuant to KRS 95A.262, as a fire department operated and maintained on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth ***and shall include qualified civilian firefighters employed at Kentucky-based military installations***.[~~ If death benefits are paid under KRS 61.316 to eligible survivors of a volunteer firefighter, then no benefits shall be paid to those survivors under this section.~~]

(2) The spouse of any police officer, sheriff, deputy sheriff, corrections employee with the power of a peace officer pursuant to KRS 196.037, any auxiliary police officer appointed pursuant to KRS 95.445, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, firefighter, or member of the Kentucky National Guard on state active duty pursuant to KRS 38.030, whose death occurs on or after July 1, ***2002***[~~1991~~], as a direct result of an act in the line of duty shall receive a lump-sum payment of ***seventy-five thousand dollars ($75,000)***[~~fifty thousand dollars ($50,000)~~] if there are no surviving children, which sum shall be paid by the State Treasurer from the general expenditure fund of the State Treasury. If there are surviving children and a surviving spouse, the payment shall be apportioned equally among the surviving children and the spouse. If there is no surviving spouse, the payment shall be made to the surviving children, eighteen (18) or more years of age. For surviving children less than eighteen (18) years of age, the State Treasurer shall:

(a) Pay ***thirty thousand dollars ($30,000)***[~~twenty thousand dollars ($20,000)~~] to the surviving children; and

(b) Hold ***forty-five thousand dollars ($45,000)***[~~thirty thousand dollars ($30,000)~~] in trust divided into equal accounts at appropriate interest rates for each surviving child until the child reaches the age of eighteen (18) years.

If a child dies before reaching the age of eighteen (18) years, his account shall be paid to his estate. If there are no surviving children, the payment shall be made to any parents of the deceased.

(3) The Commission on Fire Protection Personnel Standards and Education shall be authorized to promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to both paid and volunteer firefighters, including, but not limited to, defining when a firefighter has died in line of duty. Administrative hearings promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.

(4) The Justice Cabinet may promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to police officers, including, but not limited to, defining when a police officer has died in line of duty. Administrative hearings promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.

(5) The Department of Corrections shall promulgate administrative regulations establishing the criteria and procedures applicable to the administration of this section as it pertains to correctional employees, including, but not limited to, defining which employees qualify for coverage and which circumstances constitute death in the line of duty.

(6) The benefits payable under this section shall be in addition to any benefits now or hereafter prescribed under any police, sheriff, firefighter's, or National Guard retirement or benefit fund established by the federal government or by any state, county, or any municipality.

(7) Any funds appropriated for the purpose of paying the death benefits described in subsection (2) of this section shall be allotted to a self-insuring account. These funds shall not be used for the purpose of purchasing insurance.

SECTION 2. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

(1) If a firefighter as defined in Section 1 of this Act is, before, on, or after the effective date of this Act, permanently and totally disabled as defined in KRS 342.0011 as a direct result of activities in the line of duty, then the firefighter shall be entitled to receive a monthly payment to be paid by the Commission on Fire Protection Personnel Standards and Education of:

(a) Two hundred dollars ($200) to help defray the costs of life insurance; and

(b) Two hundred dollars ($200) to help defray the costs of health insurance.

(2) In order to receive the monthly payment, the firefighter must present to the Commission on Fire Protection Personnel Standards and Education:

(a) A written statement from the fire chief of the fire department under whose command the firefighter was at the time of injury stating the fact that the firefighter was on active duty and on assignment with that fire department when the injury occurred; and

(b) A written statement from at least two (2) licensed and practicing physicians stating that the member is totally and likely to be permanently disabled as defined in KRS 342.0011; and

(c) Proof, in a form satisfactory to the commission, that the firefighter has either or both active life and health insurance policies.

(3) (a) If a firefighter, either through a settlement of any kind or through any other source, has life insurance provided at no cost, then the firefighter shall not be eligible to receive the life insurance payment described in subsection (1)(a) of this section. If a firefighter receives partial payment of life insurance, and the portion of the payment that the firefighter is responsible for is less than the amount stated in subsection (1) of this section, then the firefighter shall only receive that portion of the payment to pay for the cost of the insurance.

(b) If a firefighter, either through a settlement of any kind or through any other source, has health insurance provided at no cost, then the firefighter shall not be eligible to receive the health insurance payment described in subsection (1)(b) of this section. If a firefighter receives partial payment of health insurance, and the portion of the payment that the firefighter is responsible for is less than the amount stated in subsection (1) of this section, then the firefighter shall only receive that portion of the payment to pay for the cost of the insurance.

(4) If the firefighter should no longer be considered permanently and totally disabled as defined in KRS 342.0011, or if either or both life and health insurance policies are terminated, then the firefighter shall within thirty (30) days of that determination notify the Commission on Fire Protection Personnel Standards and Education, in writing, of that fact or facts. The commission shall then terminate the appropriate subsequent payments to that firefighter. A firefighter may continue to receive payments for one (1) type of insurance as long as the firefighter is still permanently and totally disabled and the insurance policy is active. If the firefighter fails to notify the commission within thirty (30) days and receives subsequent payments under this section, the firefighter shall be responsible for repaying any payments provided to the firefighter under this section to the commission from the date that the firefighter was no longer considered permanently and totally disabled.

(5) The Commission on Fire Protection Personnel Standards and Education shall promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A establishing procedures and criteria applicable to the administration of this section by December 31, 2002.

(6) Any firefighter convicted of knowingly providing false information to receive the benefits in subsection (1) of this section shall be guilty of a Class D felony and shall be responsible for repaying the total amount paid to the firefighter, plus interest, under the provisions of this section within a time to be determined by the commission. The firefighter shall also no longer be eligible to receive any payments provided under this section.

(7) Funds from the Kentucky firefighters disability trust fund as provided in Sections 3 and 4 of this Act shall be used for the purposes of this section. In the event sufficient funds do not exist to cover all the financial obligations of this section, then the payments shall be prorated among the participants evenly.

SECTION 3. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Game" means the Kentucky firefighters' disability trust fund benefit game;

(b) "Trust fund" means the Kentucky firefighters' disability program trust fund created in Section 4 of this Act; and

(c) "Net revenue" means all proceeds received from the sale of game tickets, less prize payouts, reasonable administrative costs, and fees associated with the game as determined by the corporation.

(2) Beginning the first business day of January 2003, the corporation shall establish an instant lottery scratch-off game designated as the Kentucky firefighters' disability trust fund benefit game.

(3) All net revenues received from the sale of game tickets shall initially be deposited with the corporation and are appropriated and transferred on a monthly basis to the fund for the purposes set out in Sections 2 and 3 of this Act.

(4) The corporation shall change the design or theme of the game regularly so that the game remains competitive with the

other instant lottery scratch-off games offered by the corporation. Tickets for the game shall clearly state that net revenues from the game are being used for the benefit of firefighters' programs in the Commonwealth of Kentucky.

(5) Net revenues from the game shall be used exclusively for the firefighters' disability program established under Section 2 of this Act administered by the Commission on Fire Protection Personnel Standards and Education.

(6) The corporation shall determine the price of tickets, determine the payout, and make other administrative decisions regarding the game.

SECTION 4. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

(1) There is established and created in the State Treasury a fund entitled the "Kentucky firefighters' disability program trust fund" to provide funds for the supplemental health and life insurance payments established under Section 2 of this Act. The fund may receive state appropriations, gifts, grants, federal funds, and any other funds both public and private in addition to the primary funding source established in Section 3 of this Act. Moneys deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the Commission on Fire Protection Personnel Standards and Education. Any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9), and any income earned from the investments along with the unallotted or unencumbered balances in the fund shall not lapse and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the supplemental insurance payments established in Section 2 of this Act.

(2) The fund shall be used to support the costs that the Commission on Fire Protection Personnel Standards and Education incur and deem necessary to carry out the provisions of Section 2 of this Act.

Section 5. KRS 154A.130 is amended to read as follows:

(1) All money received by the corporation from the sale of lottery tickets and all other sources shall be deposited into a corporate operating account. The corporation is authorized to use all money in the corporate operating account for the purposes of paying prizes and the necessary expenses of the corporation and dividends to the state. The corporation shall allocate the amount to be paid by the corporation to prize winners. The amount in the corporate operating account which the corporation anticipates will be available for the payment of prizes on an annuity basis may be invested in direct United States Treasury obligations. These instruments may be in varying maturities with respect to payment of annuities and may be in book-entry form. Monthly, no later than the last business day of the succeeding month, the corporation shall transfer to a lottery trust fund the amount of net revenues which the corporation determines are surplus to its needs. These funds shall be held in trust until 1990 at which time the General Assembly shall determine the manner in which the funds will be allocated and appropriated. The net revenues shall be determined by deducting from gross revenues the payment costs incurred in the operation and administration of the lottery, including the expenses of the corporation and the costs resulting from any contract or contracts entered into for promotional, advertising, or operational services or for the purchase or lease of lottery equipment and materials, fixed capital outlays, and the payment of prizes to the holders of winning tickets. After the start-up costs are paid, it is the intent of the Legislature that it shall be the goal of the corporation to transfer each year thirty-five percent (35%) of gross revenues to the general fund for the purposes stated above.

(2) A Kentucky lottery trust account is established in the State Treasury. Net lottery revenues shall be credited to this restricted account as provided in subsection (1) of this section. Moneys credited to the Kentucky lottery trust account shall be invested by the state in accordance with state investment practices and all earnings from the investments shall accrue to this account. No moneys shall be allotted or expended from this account unless pursuant to an appropriation by the General Assembly, except ***for funds required to be transferred to the Kentucky firefighters' disability program fund under Section 3 of this Act, and except*** that moneys as are needed shall be transferred to the general fund pursuant to the provisions of the Acts of the Extraordinary Session of the 1988 General Assembly. Moneys in the Kentucky lottery trust account shall not lapse at the close of the state fiscal year.

(3) Beginning in fiscal year 1999-2000, and each fiscal year thereafter, three million dollars ($3,000,000) from net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:

  (a) To the Collaborative Center for Literacy Development, one million two hundred thousand dollars ($1,200,000) in fiscal year 1999-2000 and each fiscal year thereafter; and

  (b) To the early reading incentive fund, one million eight hundred thousand dollars ($1,800,000) in fiscal year 1999-2000 and each fiscal year thereafter.

  All lottery revenues collected under Section 3 of this Act shall be distributed under the provisions of Section 3 of this Act, and no portion of those revenues shall be distributed under the provisions of this section.

(4) After the allocation of three million dollars ($3,000,000) to literacy development, as provided in subsection (3) of this section, ***and except as otherwise provided in Section 3 of this Act,*** net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:

  (a) To the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund established in KRS 164.7877:

    1. Seven million dollars ($7,000,000) in fiscal year 1999-2000;

    2. Fifteen percent (15%) in fiscal year 2000-2001;

3. Twenty-five percent (25%) in fiscal year 2001-2002;
4. Thirty-two percent (32%) in fiscal year 2002-2003;
5. Forty percent (40%) in fiscal year 2003-2004; and
6. Forty-five percent (45%) in fiscal year 2004-2005 and each fiscal year thereafter; and

(b) To the College Access Program and the Kentucky Tuition Grants Program established in KRS Chapter 164:

1. Fourteen million dollars ($14,000,000) in fiscal year 1998-1999;
2. Fifteen million dollars ($15,000,000) in fiscal year 1999-2000;
3. Thirty-two percent (32%) in fiscal year 2000-2001 through fiscal year 2002-2003;
4. Forty percent (40%) in fiscal year 2003-2004;
5. Forty-five percent (45%) in fiscal year 2004-2005; and
6. Fifty-five percent (55%) of net lottery revenues in fiscal year 2005-2006 and each fiscal year thereafter.

(5) The Auditor of Public Accounts shall be responsible for a financial postaudit of the books and records of the corporation. The postaudit shall be conducted in accordance with generally accepted accounting principles, shall be paid for by the corporation, and shall be completed within ninety (90) days of the close of the corporation's fiscal year. The Auditor of Public Accounts shall contract with an independent, certified public accountant who meets the qualifications existing to do business within the Commonwealth of Kentucky to perform the corporation postaudit. The Auditor of Public Accounts shall remain responsible for the annual postaudit and the corporation shall pay all audit costs. The Auditor of Public Accounts may at any time conduct additional audits, including performance audits, of the corporation as he deems necessary or desirable. Contracts shall be entered into for audit services for a period not to exceed five (5) years and the same firm shall not receive two (2) consecutive audit contracts. All audits shall be filed with the Governor, the President of the Senate, and the Speaker of the House of Representatives. The corporation shall reimburse the Auditor of Public Accounts for the reasonable costs of any audits performed by him. The corporation shall cooperate with the Auditor of Public Accounts by giving employees designated by any of them access to facilities of the corporation for the purpose of efficient compliance with their respective responsibilities. With respect to any reimbursement that the corporation is required to pay to any agency, the corporation shall enter into an agreement with that agency under which the corporation shall pay to the agency an amount reasonably anticipated to cover the reimbursable expenses in advance of the expenses being incurred.

(6) By no later than December 31 of each year, in an advertisement at least one-fourth (1/4) of a page in size, the Kentucky Lottery Corporation shall publish the following information in every general-circulation daily newspaper published in Kentucky:

(a) The statements of revenue, expenses, and changes in retained earnings as shown in the most recent annual audit report. It shall be explained that the transfer of dividends is the amount of lottery earnings transferred to the general fund;

(b) A statement identifying the auditing firm;

(c) A telephone number which citizens may call to obtain a complete copy of the annual audit report; and

(d) The name of the president/chief executive officer of the Kentucky Lottery Corporation and a complete list of board members.

The Kentucky Lottery Corporation shall pay for the cost of the advertisement.

Section 6. KRS 154A.020 is amended to read as follows:

(1) There is hereby created and established a state lottery which shall be administered by an independent, de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a public body corporate and politic to be known as the Kentucky Lottery Corporation. The corporation shall be deemed a public agency within the meaning of KRS 61.805 and 61.870. This corporation shall be managed in such a manner that enables the people of the Commonwealth to benefit from its profits and to enjoy the best possible lottery games. The General Assembly hereby recognizes that the operations of a lottery are unique activities for state government and that a corporate structure will best enable the lottery to be managed in an entrepreneurial and business-like manner. It is the intent of the General Assembly that government programs and services shall not be mentioned in advertising or promoting a lottery***, except as provided in Section 3 of this Act***. It is also the intent of the General Assembly that the Kentucky Lottery Corporation shall be accountable to the Governor, the General Assembly and the people of the Commonwealth through a system of audits, reports and thorough financial disclosure as required by this chapter.

(2) The existence of the corporation shall begin only upon confirmation of the members of the board by the Senate as provided in KRS 154A.030. Until the time of such confirmation, no business shall be conducted on behalf of the lottery.

(3) Notwithstanding any other provision of law to the contrary, no official action of any form shall be taken by the board at any time unless a majority of the members of the board shall have been confirmed by the Senate as provided in KRS 154A.030. Any action taken on behalf of the lottery when less than a majority of the members of the board shall have been confirmed shall be of no effect.

The Committee Amendment No. 1 Title to **HB 588** is as follows:

Amend the title to read as follows: "AN ACT relating to the benefits of emergency service personnel and making an appropriation therefor.".

HB 703, AN ACT relating to absentee voting for persons with disabilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.075 is amended to read as follows:

(1) Any qualified voter who has not been declared mentally disabled by a court of competent jurisdiction, and who, on account of age, disability***,*** or illness, is not able to appear at the polls on election day ***or for whom age, disability, or illness creates difficulty or hardship in appearing at the polls on election day*** may vote in the following manner. At least seven (7) days prior to the date of the election and prior to the close of normal business hours, he shall present to the clerk by mail or in person his application for an absentee ballot containing a verified statement that his inability to appear ***or difficulty or hardship in appearing*** is due to age, disability, or illness. The request for the application may be made by telephone, facsimile machine, mail, or in person. Upon receipt of the application, the clerk shall immediately mail to the voter an absentee ballot and envelopes, and the voter shall cast his vote in accordance with KRS 117.086. The ballot shall be returned by the voter to the county clerk by mail.

(2) Ballots furnished pursuant to the provisions of this section shall include the names of all candidates for which the voter is entitled to vote.

SB 128, AN ACT relating to a pilot program for unassisted voting by the blind.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "blind or visually impaired individual" means an individual who:

(a) Has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision so that the widest diameter of the visual field subtends an angle no greater than twenty (20) degrees;

(b) Has a medically indicated expectation of visual deterioration;

(c) Has a medically diagnosed limitation in visual functioning that restricts the individual's ability to read and write standard print at levels expected of individuals of comparable ability;

(d) Has been certified as requiring permanent assistance to vote under KRS 117.255(5) for reason of blindness; or

(e) Qualifies to receive assistance to vote under KRS 117.255(2) for reason of blindness.

(2) For purposes of this section, "pilot program" means a program in a county containing a consolidated local government for unassisted voting by blind or visually impaired individuals.

(3) A county board of elections in a county containing a consolidated local government may establish a pilot program. As part of this pilot program, the State Board of Elections shall approve the use of voting equipment under KRS 117.379 that is designed to permit blind and visually impaired individuals to vote without assistance, for use beginning in the 2002 general election. No county board of elections in a county containing a consolidated local government shall be required to operate a pilot program.

(4) The State Board of Elections, if it approves the voting equipment under KRS 117.379, may approve the use of voting equipment designed to permit blind and visually impaired individuals to vote without assistance in as many locations within a county containing a consolidated local government as are designated by the county board of elections.

(5) A county board of elections in a county containing a consolidated local government shall provide a report to the State Board of Elections after every primary or general election regarding the number of blind or visually impaired individuals that have utilized the voting equipment during the pilot program.

(6) Notwithstanding the provisions of KRS 116.025, or any other statute to the contrary, a blind or visually impaired voter residing in a county containing a consolidated local government that is operating a pilot program shall be permitted to vote at a location outside the precinct of his or her registration by voting at a location within the county of his or her registration on a voting machine designed to permit blind or visually impaired individuals to vote without assistance, which may include voting at the county clerk's office, or other place designated by the county board of elections, and approved by the State Board of Elections.

(7) Notwithstanding the provisions of KRS 117.075, 117.085, 117.086, or 117.0863 or any other statute to the contrary, a blind or visually impaired individual residing in a county containing a consolidated local government that is operating a pilot program shall be permitted to vote in the location within the county of his or her registration as provided under subsection (6) of this section, on a voting machine designed to permit blind or visually impaired individuals to vote without assistance, at any time during which absentee voting is conducted in the clerk's office or other place designated by the county board of elections during normal business hours on at least any of the twelve (12) working days before

the election, and the county board of elections may permit the voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election prescribed above. An application for those blind or visually impaired individuals wishing to vote on a voting machine approved for use by blind or visually impaired individuals shall be prescribed by the State Board of Elections and shall include the individual's sworn statement that the individual is blind or visually impaired.

(8) Notwithstanding the requirements of KRS 117.381, or any other statute to the contrary, the State Board of Elections may certify, as a part of the pilot project of a county containing a consolidated local government, voting equipment which utilizes audio recordings, voice-activated technology, or vocal recognition technology to record a vote, and may require such accommodations as would permit a blind or visually impaired voter to cast a vote in secret.

(9) Notwithstanding the provisions of KRS 117.255, a blind or visually impaired voter residing in a county containing a consolidated local government that is operating a pilot project may cast his or her vote alone and without assistance on a voting machine approved for use by blind or visually impaired individuals. However, the blind or visually impaired voter shall be instructed by the officers of election, with the aid of the instruction cards and the model, in the use of the machine, if the voter so requests.

(10) Nothing in this section shall impair the right of any qualified voter under KRS 117.255 to receive assistance and vote according to the procedures specified in that section.

The Committee Amendment 1 to **SB 128** is as follows:

On page 1, at line 17, after the word "***government***", by inserting the words "***or containing a city of the first class***"; and

On page 1, at line 20, after the word "***government***", by inserting the words "***or containing a city of the first class***"; and

On page 1, at line 24, after the word "***government***", by inserting the words "***or containing a city of the first class***"; and

On page 2, at line 4, after the word "***government***", by inserting the words "***or containing a city of the first class***"; and

On page 2, at line 7, after the word "***government***", by inserting the words "***or containing a city of the first class***"; and

On page 2, at line 12, after the word "***government***", by inserting the words "***or containing a city of the first class***"; and

On page 2, at line 21, after the word "***government***", by inserting the words "***or containing a city of the first class***"; and

On page 3, at line 10, after the word "***government***", by inserting the words "***or containing a city of the first class***"; and

On page 3, at line 15, after the word "***government***", by inserting the words "***or containing a city of the first class***".

The Committee on Local Government reported **HB 503, HB 598,** with Committee Substitute attached thereto, **HB 650, HB 679,** with Committee Substitute attached thereto, **HB 702,** with Committee Amendment attached thereto, **SB 112** and **SB 143,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 503, AN ACT relating to charitable community foundations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.1575 is amended to read as follows:

(1) As used in this section:

(a) "Foundation" means a charitable community foundation established to accept gifts, bequests, devises, or other transfers for the purpose of meeting charitable objectives for the citizens of the community;

(b) "Local government" means every city, regardless of classification, every county, and every charter county and urban-county government;[~~ and~~]

(c) "Component fund" means an individual fund treated as part of a foundation and that meets the requirements established under regulations promulgated implementing 26 U.S.C. sec. 170 as amended from time to time***; and***

(d) "Nonprofit organization" means an organization incorporated under KRS Chapter 273 and exempt under Section 501(c)(3) of the Internal Revenue Code.

(2) ***(a)*** A local government may donate to a foundation the proceeds from the sale of any utility or facility or any grant, bequest, or devise received by it.

(b) A local government may contribute to a nonprofit organization exempt under Section 501(c)(3) of the Internal Revenue Code for the development and operation of a community center or recreational facilities.

(3) If the foundation receives a gift from a local government that is subject to conditions, limitations, or requirements by the donor, the gift shall be segregated in a component fund within the foundation, which shall be subject to conditions, limitations, or requirements that are substantially identical to those established by the donor.

(4) If the foundation receives a gift from a local government that is not subject to any specified conditions, limitations, or requirements by the donor, the gift amount shall be maintained in a component fund. The income from the fund shall be distributed to the local government for charitable purposes as directed by an ordinance of the governing body of the local

government.

(5) *If a nonprofit organization receives a gift from a local government it shall maintain the financial records so as to be able to ascertain the use of the donated funds.*

(6) The foundation *or nonprofit organization exempt under Section 501(c)(3) of the Internal Revenue Code* shall return any donations to the general fund of a local government if:

(a) The foundation *or nonprofit organization exempt under Section 501(c)(3) of the Internal Revenue Code* loses its status as a public charitable organization;

(b) The foundation *or nonprofit organization exempt under Section 501(c)(3) of the Internal Revenue Code* is liquidated; or

(c) The foundation *or nonprofit organization exempt under Section 501(c)(3) of the Internal Revenue Code* violates any condition, limitation, or requirement as established by the local government governing body.

HB 598, AN ACT relating to antenna towers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.324 is amended to read as follows:

(1) All other provisions of this chapter to the contrary notwithstanding, public utilities operating under the jurisdiction of the Public Service Commission, except as specified in KRS 100.987~~[and subsection (5) of this section]~~, or the Department of Vehicle Regulation or Federal Power Commission, any municipally-owned electric system, and common carriers by rail shall not be required to receive the approval of the planning unit for the location or relocation of any of their service facilities. Service facilities include all facilities of such utilities and common carriers by rail other than office space, garage space, and warehouse space and include office space, garage space, and warehouse space when such space is incidental to a service facility. The Public Service Commission and the Department of Vehicle Regulation shall give notice to the planning commission of any planning unit of any hearing which affects locations or relocations of service facilities within that planning unit's jurisdiction.

(2) The nonservice facilities excluded in subsection (1) of this section must be in accordance with the zoning regulations.

(3) Upon the request of the planning commission, the public utilities referred to in this section shall provide the planning commission of the planning unit affected with information concerning service facilities which have been located on and relocated on private property.

(4) Any proposal for acquisition or disposition of land for public facilities, or changes in the character, location, or extent of structures or land for public facilities, excluding state and federal highways and public utilities and common carriers by rail mentioned in this section, shall be referred to the commission to be reviewed in light of its agreement with the comprehensive plan, and the commission shall, within sixty (60) days from the date of its receipt, review the project and advise the referring body whether the project is in accordance with the comprehensive plan. If it disapproves of the project, it shall state the reasons for disapproval in writing and make suggestions for changes which will, in its opinion, better accomplish the objectives of the comprehensive plan. No permit required for construction or occupancy of such public facilities shall be issued until the expiration of the sixty (60) day period or until the planning commission issues its report, whichever occurs first.

~~[(5) Every utility which proposes to construct an antenna tower for cellular telecommunications services or personal communications services within a county containing a city of the first class shall submit the proposal to the planning commission of the affected planning unit. The planning commission shall review the proposal in light of its agreement with the comprehensive plan and locally adopted zoning regulations and shall, within sixty (60) days from the date the proposal is submitted, make its final decision and advise the utility in writing whether the proposed construction is in accordance with the comprehensive plan and locally adopted zoning regulations. If the planning commission fails to issue a final decision within sixty (60) days, it is presumed to have approved the proposal, and may not later appeal a decision of the Public Service Commission under KRS 278.650(3). If the planning commission disapproves of the proposed construction, it shall state the reasons for disapproval in its written decision and may make suggestions which, in its opinion, better accomplish the objectives of the comprehensive plan and the locally adopted zoning regulations. No permit for construction of a cellular or personal communications services antenna tower, including any certificate of convenience and necessity required to be issued by the Kentucky Public Service Commission, shall be issued until the expiration of the sixty (60) day period or until the planning commission issues its final decision on the utility proposal, whichever occurs first.]~~

Section 2. KRS 100.985 is amended to read as follows:

In addition to the definitions set forth in KRS 100.111, the following definitions shall apply to KRS 100.985 to 100.987:

(1) "Cellular antenna tower" means a tower constructed for, or an existing facility that has been adapted for, the location of transmission or related equipment to be used in the provision of cellular telecommunications services or personal communications services;

(2) "Cellular telecommunications service" means a retail telecommunications service that uses radio signals transmitted

through cell sites and mobile switching stations;

(3) "Co-location" means locating two (2) or more transmission antennas or related equipment on the same cellular antenna tower;

(4) "Personal communication service" has the meaning as defined in 47 U.S.C. sec. 332(c); ***and***

(5)[~~ "Uniform application" means an application for a certificate of convenience and necessity issued under KRS 278.020 submitted by a utility to the Public Service Commission to construct an antenna tower for cellular telecommunications services of personal communications service in a jurisdiction, that has adopted planning and zoning regulations in accordance with this chapter, except for any county that contains a city of the first class; and~~

~~(6)~~] "Utility" has the meaning as defined in KRS 278.010(3).

Section 3. KRS 100.987 is amended to read as follows:

(1) A planning unit as defined in KRS 100.111 and legislative body or fiscal court that has adopted planning and zoning regulations[~~, except for a county that contains a city of the first class as provided under KRS 278.650,~~] may plan for and regulate the siting of cellular antenna towers in accordance with locally adopted planning or zoning regulations in this chapter[~~ by officially registering with the Public Service Commission. The registration shall be in the form of an official resolution adopted by the local planning commission. Nothing in this section shall require a planning unit and legislative body or fiscal court to plan for and regulate the siting of cellular antenna towers~~].

(2) Every utility or a company that is engaged in the business of providing the required infrastructure to a utility that proposes to construct an antenna tower for cellular telecommunications services or personal communications services within the jurisdiction of a planning unit that has adopted planning and zoning regulations in accordance with this chapter[~~, except for a county that contains a city of the first class as provided under KRS 278.650, and that has officially registered with the Public Service Commission~~] shall:

(a) Submit a copy of the ***applicant's***[~~utility's~~] completed[~~ uniform~~] application to the planning commission of the affected planning unit to construct an antenna tower for cellular or personal telecommunications services[~~ within five (5) days of applying to the Public Service Commission for a certificate of necessity and convenience as required by KRS 278.020(1)~~]. The[~~ uniform~~] application shall include a grid map that shows the location of all existing cellular antenna towers and that indicates the general position of proposed construction sites for new cellular antenna towers within an area that includes:

1. All of the planning unit's jurisdiction; and
2. A one-half (1/2) mile area outside of the boundaries of the planning unit's jurisdiction, if that area contains either existing or proposed construction sites for cellular antenna towers;

(b) Include in any contract with an owner of property upon which a cellular antenna tower is to be constructed, a provision that specifies, in the case of abandonment, a method that the utility will follow in dismantling and removing a cellular antenna tower including a timetable for removal; and

(c) Comply with any local ordinances concerning land use, subject to the limitations imposed by 47 U.S.C. sec. 332(c), KRS 278.030, 278.040, and 278.280.

(3) [~~Commencing from the time that a utility files a uniform application with the Public Service Commission, ~~]All information contained in the[~~ uniform~~] application and any updates, except for information that specifically identifies the proposed location of the cellular antenna tower then being reviewed[~~ by the applying utility~~], shall be deemed confidential and proprietary within the meaning of KRS 61.878. The[~~ Public Service Commission and the~~] local planning commission shall deny any public request for the inspection of this information, whether submitted under Kentucky's Open Records Act or otherwise, except when ordered to release the information by a court of competent jurisdiction. Any person violating this subsection shall be guilty of official misconduct in the second degree as provided under KRS 522.030.

(4) After receiving the[~~ uniform~~] application to construct a cellular antenna tower, the planning commission shall:

(a) Review the[~~ uniform~~] application in light of its agreement with the comprehensive plan and locally adopted zoning regulations;

(b) Make its final decision to approve or disapprove the[~~ uniform~~] application; and

(c) Advise the ***applicant***[~~utility and the Public Service Commission~~] in writing of its final decision within sixty (60) days commencing from the date that the[~~ uniform~~] application is received by the planning commission or within a date certain specified in a written agreement between the local planning commission and the ***applicant***[~~utility~~]. If the planning commission fails to issue a final decision within sixty (60) days and if there is no written agreement between the local planning commission and the utility to a specific date for the planning commission to issue a decision, it is presumed that the local planning commission has approved the[~~ utility's uniform~~] application.

(5)[~~ (a)~~] If the planning commission disapproves of the proposed construction, it shall state the reasons for disapproval in its written decision and may make suggestions which, in its opinion, better accomplish the objectives of the comprehensive plan and the locally adopted zoning regulations. No permit for construction of a cellular or personal communications services antenna tower[~~, including any certificate of convenience and necessity required to be issued by the Kentucky Public Service Commission,~~] shall be issued until the planning commission approves the[~~ uniform~~] application or the sixty

(60) day time period has expired, whichever occurs first.[~~ If a planning commission rejects the uniform application to construct an antenna tower, the Public Service Commission may override the decision of the planning commission and issue a certificate of convenience and necessity for construction of the cellular or personal communications services antenna tower, if it determines that there is no acceptable alternate site and that the public convenience and necessity requires the proposed construction.~~

~~(b) Any party, other than the applying utility, that is aggrieved by the final action of a planning commission under this section, may intervene in the action to the Public Service Commission, but this appeal shall not automatically postpone action by the Public Service Commission.~~]

(6) The planning commission may require the ***applicant***[~~utility~~] to make a reasonable attempt to co-locate additional transmitting or related equipment on any new or existing towers, if there is available space on the tower and the co-location does not interfere with the structural integrity of the tower and does not require the owner of the tower to make substantial alterations to the tower. A planning commission may provide the location of existing cellular antenna towers on which the commission deems the ***applicant***[~~applying utility~~] can successfully co-locate its transmitting and related equipment. If the local planning commission requires the ***applicant***[~~utility~~] to attempt co-location, the ***applicant***[~~utility~~] shall provide the local planning unit with a statement indicating that the ***applicant***[~~utility~~] has:

(a) Successfully attempted to co-locate on towers designed to host multiple wireless service providers' facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the ***applicant's***[~~utility's~~] facilities, and that identifies the location of the tower ***on*** which the ***applicant***[~~applying utility~~] will co-locate its transmission and related facilities[~~ on~~]; or

(b) Unsuccessfully attempted to co-locate on towers designed to host multiple wireless service provider's facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the ***applicant's***[~~utility's~~] facilities and that:

1. Identifies the location of the towers ***on*** which the ***applicant***[~~applying utility~~] attempted to co-locate[~~ on~~]; and

2. Lists the reasons why the co-location was unsuccessful in each instance.

(7) The local planning commission may deny ***an***[~~a uniform~~] application to construct a cellular antenna tower based on ***an applicant's***[~~a utility's~~] unwillingness to attempt to co-locate additional transmitting or related equipment on any new or existing towers.

(8) In the event of co-location, a utility shall be considered the primary user of the tower, if the utility is the owner of the antenna tower and if no other agreement exists that prescribes an alternate arrangement between the parties for use of the tower. Any other entity that co-locates transmission or related facilities on a cellular antenna tower shall do so in a manner that does not impose additional costs or operating restrictions on the primary user.

Section 4. KRS 278.650 is amended to read as follows:

[~~(1) If a utility proposes construction of an antenna tower for cellular telecommunications services or personal communications services which is to be located within a county containing a city of the first class, then the utility shall submit the proposal to the planning commission of the affected planning unit prior to making application to the commission for a certificate of public convenience and necessity as required by KRS 278.020(1). The commission shall not grant a certificate of convenience and necessity in this situation until a final action on the proposal has been taken by the planning commission of the affected planning unit, or until the sixty (60) day time period set forth in KRS 100.324(5) has expired, whichever comes first.~~

~~(2) If a planning commission rejects a proposal to construct an antenna tower, the commission may override the decision of the planning commission and issue a certificate of convenience and necessity for construction of the cellular or personal communications services antenna tower, if it determines that there is no acceptable alternate site, and that the public convenience and necessity requires the proposed construction.~~

~~(3) Any party aggrieved by the final action of the Public Service Commission under subsections (1) and (2) of this section shall appeal from the action to the Franklin Circuit Court. The appeal shall be filed within thirty (30) days after the final action by the Public Service Commission. All final actions of the Public Service Commission which have not been appealed within thirty (30) days shall not be subject to judicial review.~~

~~(4)~~] If a utility proposes construction of an antenna tower for cellular telecommunications services or personal communications services which is to be located ***in an***[~~outside the~~] area ***outside the jurisdiction of a planning commission, the utility shall apply to the Public Service Commission for a certificate of public convenience and necessity pursuant to KRS 278.020(1), Section 5 of this Act, and this section. In reviewing the application,***[~~ of a county containing a city of the first class, then~~] the commission may[~~ also~~] take into account[~~ in its deliberations~~] the character of the general area concerned, and the likely effects of the installation on nearby land uses and values.

Section 5. KRS 278.665 is amended to read as follows:

(1) The commission shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish the minimum content of ***an***[~~a uniform~~] application[~~, provided under KRS 100.985(5),~~] for a certificate of convenience and necessity to construct cellular antenna towers ***for areas outside the jurisdiction of a planning commission***[~~, and the~~

~~procedures to carry out the commission's responsibilities under KRS 100.987~~].

(2) The commission, in establishing the public notice requirements of ***an***[~~a uniform~~] application as provided for in subsection (1) of this section, shall distinguish between areas of low and high population densities. At a minimum, when the site of the proposed cellular antenna tower is outside of an incorporated city[~~ or within a rural service area in an urban-county~~], the commission shall require that every person who owns property contiguous to the property where the proposed cellular antenna tower will be located receives notice by certified mail, return receipt requested, of the proposed construction, given the commission docket number under which the application will be processed, and informed of the opportunity to intervene in the ***commission proceedings on the*** application.[~~ The provisions of this subsection shall not apply to unincorporated areas within a county containing a city of the first class.~~]

Section 6. The following KRS section is repealed:

278.660 Confidentiality of uniform application and updates -- Penalty for violation.

The Committee Substitute to **HB 598** is as follows:

HB 598, AN ACT relating to antenna towers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.324 is amended to read as follows:

(1) All other provisions of this chapter to the contrary notwithstanding, public utilities operating under the jurisdiction of the Public Service Commission, except as specified in KRS 100.987[~~ and subsection (5) of this section~~], or the Department of Vehicle Regulation or Federal Power Commission, any municipally-owned electric system, and common carriers by rail shall not be required to receive the approval of the planning unit for the location or relocation of any of their service facilities. Service facilities include all facilities of such utilities and common carriers by rail other than office space, garage space, and warehouse space and include office space, garage space, and warehouse space when such space is incidental to a service facility. The Public Service Commission and the Department of Vehicle Regulation shall give notice to the planning commission of any planning unit of any hearing which affects locations or relocations of service facilities within that planning unit's jurisdiction.

(2) The nonservice facilities excluded in subsection (1) of this section must be in accordance with the zoning regulations.

(3) Upon the request of the planning commission, the public utilities referred to in this section shall provide the planning commission of the planning unit affected with information concerning service facilities which have been located on and relocated on private property.

(4) Any proposal for acquisition or disposition of land for public facilities, or changes in the character, location, or extent of structures or land for public facilities, excluding state and federal highways and public utilities and common carriers by rail mentioned in this section, shall be referred to the commission to be reviewed in light of its agreement with the comprehensive plan, and the commission shall, within sixty (60) days from the date of its receipt, review the project and advise the referring body whether the project is in accordance with the comprehensive plan. If it disapproves of the project, it shall state the reasons for disapproval in writing and make suggestions for changes which will, in its opinion, better accomplish the objectives of the comprehensive plan. No permit required for construction or occupancy of such public facilities shall be issued until the expiration of the sixty (60) day period or until the planning commission issues its report, whichever occurs first.

[~~(5) Every utility which proposes to construct an antenna tower for cellular telecommunications services or personal communications services within a county containing a city of the first class shall submit the proposal to the planning commission of the affected planning unit. The planning commission shall review the proposal in light of its agreement with the comprehensive plan and locally adopted zoning regulations and shall, within sixty (60) days from the date the proposal is submitted, make its final decision and advise the utility in writing whether the proposed construction is in accordance with the comprehensive plan and locally adopted zoning regulations. If the planning commission fails to issue a final decision within sixty (60) days, it is presumed to have approved the proposal, and may not later appeal a decision of the Public Service Commission under KRS 278.650(3). If the planning commission disapproves of the proposed construction, it shall state the reasons for disapproval in its written decision and may make suggestions which, in its opinion, better accomplish the objectives of the comprehensive plan and the locally adopted zoning regulations. No permit for construction of a cellular or personal communications services antenna tower, including any certificate of convenience and necessity required to be issued by the Kentucky Public Service Commission, shall be issued until the expiration of the sixty (60) day period or until the planning commission issues its final decision on the utility proposal, whichever occurs first.~~]

Section 2. KRS 100.985 is amended to read as follows:

In addition to the definitions set forth in KRS 100.111, the following definitions shall apply to KRS 100.985 to 100.987:

(1) "Cellular antenna tower" means a tower constructed for, or an existing facility that has been adapted for, the location of transmission or related equipment to be used in the provision of cellular telecommunications services or personal communications services;

(2) "Cellular telecommunications service" means a retail telecommunications service that uses radio signals transmitted through cell sites and mobile switching stations;

(3) "Co-location" means locating two (2) or more transmission antennas or related equipment on the same cellular antenna tower;

(4) "Personal communication service" has the meaning as defined in 47 U.S.C. sec. 332(c); ***and***

(5) "Uniform application" means an application[~~ for a certificate of convenience and necessity issued under KRS 278.020 submitted by a utility to the Public Service Commission~~] to construct ***a***[~~an antenna tower for~~] cellular ***antenna tower submitted to a planning commission in conformity with Sections 3 and 5 of this Act;***

(6) "Utility" has the meaning as defined in KRS 278.010(3)***; and***

(7) "Antennas or related equipment" means transmitting, receiving, or other equipment used to support cellular telecommunications service or personal communications service. This definition does not include towers.[~~telecommunications services of personal communications service in a jurisdiction, that has adopted planning and zoning regulations in accordance with this chapter, except for any county that contains a city of the first class; and~~]

Section 3. KRS 100.987 is amended to read as follows:

(1) A planning unit as defined in KRS 100.111 and legislative body or fiscal court that has adopted planning and zoning regulations[~~, except for a county that contains a city of the first class as provided under KRS 278.650,~~] may plan for and regulate the siting of cellular antenna towers in accordance with locally adopted planning or zoning regulations in this chapter[~~ by officially registering with the Public Service Commission. The registration shall be in the form of an official resolution adopted by the local planning commission. Nothing in this section shall require a planning unit and legislative body or fiscal court to plan for and regulate the siting of cellular antenna towers~~].

(2) Every utility or a company that is engaged in the business of providing the required infrastructure to a utility that proposes to construct an antenna tower for cellular telecommunications services or personal communications services within the jurisdiction of a planning unit that has adopted planning and zoning regulations in accordance with this chapter[~~, except for a county that contains a city of the first class as provided under KRS 278.650, and that has officially registered with the Public Service Commission~~] shall:

(a) Submit a copy of the ***applicant's***[~~utility's~~] completed uniform application to the planning commission of the affected planning unit to construct an antenna tower for cellular or personal telecommunications services[~~ within five (5) days of applying to the Public Service Commission for a certificate of necessity and convenience as required by KRS 278.020(1)~~]. The uniform application shall***:***

1. Include a grid map that shows the location of all existing cellular antenna towers and that indicates the general position of proposed construction sites for new cellular antenna towers within an area that includes [~~:~~

~~1.~~]all of the planning unit's jurisdiction; and

2.[~~ A one-half (1/2) mile area outside of the boundaries of the planning unit's jurisdiction, if that area contains either existing or proposed construction sites for cellular antenna towers;~~

~~(b)~~] Include in any contract with an owner of property upon which a cellular antenna tower is to be constructed, a provision that specifies, in the case of abandonment, a method that the utility will follow in dismantling and removing a cellular antenna tower including a timetable for removal; and

(b)[~~(c)~~]Comply with any local ordinances concerning land use, subject to the limitations imposed by 47 U.S.C. sec. 332(c), KRS 278.030, 278.040, and 278.280.

(3) [~~Commencing from the time that a utility files a uniform application with the Public Service Commission, ~~]All information contained in the[~~ uniform~~] application and any updates, except for ***any map or other*** information that specifically identifies the proposed location of the cellular antenna tower then being reviewed[~~ by the applying utility~~], shall be deemed confidential and proprietary within the meaning of KRS 61.878. The[~~ Public Service Commission and the~~] local planning commission shall deny any public request for the inspection of this information, whether submitted under Kentucky's Open Records Act or otherwise, except when ordered to release the information by a court of competent jurisdiction. Any person violating this subsection shall be guilty of official misconduct in the second degree as provided under KRS 522.030.

(4) After ***an applicant's submission of***[~~receiving~~] the uniform application to construct a cellular antenna tower, the planning commission shall:

(a) Review the uniform application in light of its agreement with the comprehensive plan and locally adopted zoning regulations;

(b) Make its final decision to approve or disapprove the uniform application; and

(c) Advise the ***applicant***[~~utility and the Public Service Commission~~] in writing of its final decision within sixty (60) days commencing from the date that the uniform application is ***submitted to***[~~received by~~] the planning commission or within a date certain specified in a written agreement between the local planning commission and the ***applicant***[~~utility~~]. If the planning commission fails to issue a final decision within sixty (60) days and if there is no written agreement between the local planning commission and the ***applicant***[~~utility~~] to a specific date for the planning commission to issue a decision,[~~ it is presumed that the local planning commission has approved~~] the[~~ utility's~~] uniform application ***shall be deemed approved***.

(5)[~~ (a)~~] If the planning commission disapproves of the proposed construction, it shall state the reasons for disapproval in its written decision and may make suggestions which, in its opinion, better accomplish the objectives of the comprehensive plan and the locally adopted zoning regulations. No permit for construction of a cellular or personal communications services antenna tower[~~, including any certificate of convenience and necessity required to be issued by the Kentucky Public Service Commission,~~] shall be issued until the planning commission approves the uniform application or the sixty (60) day time period has expired, whichever occurs first.[~~ If a planning commission rejects the uniform application to construct an antenna tower, the Public Service Commission may override the decision of the planning commission and issue a certificate of convenience and necessity for construction of the cellular or personal communications services antenna tower, if it determines that there is no acceptable alternate site and that the public convenience and necessity requires the proposed construction.~~

~~(b) Any party, other than the applying utility, that is aggrieved by the final action of a planning commission under this section, may intervene in the action to the Public Service Commission, but this appeal shall not automatically postpone action by the Public Service Commission.~~]

(6) The planning commission may require the ***applicant***[~~utility~~] to make a reasonable attempt to co-locate additional transmitting or related equipment[~~ on any new or existing towers, if there is available space on the tower and the co-location does not interfere with the structural integrity of the tower and does not require the owner of the tower to make substantial alterations to the tower~~]. A planning commission may provide the location of existing cellular antenna towers on which the commission deems the ***applicant***[~~applying utility~~] can successfully co-locate its transmitting and related equipment. If the local planning commission requires the ***applicant***[~~utility~~] to attempt co-location, the ***applicant***[~~utility~~] shall provide the local planning unit with a statement indicating that the ***applicant***[~~utility~~] has:

(a) Successfully attempted to co-locate on towers designed to host multiple wireless service providers' facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the ***applicant's***[~~utility's~~] facilities, and that identifies the location of the tower ***or suitable structure on*** which the ***applicant***[~~applying utility~~] will co-locate its transmission and related facilities[~~ on~~]; or

(b) Unsuccessfully attempted to co-locate on towers designed to host multiple wireless service provider's facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the ***applicant's***[~~utility's~~] facilities and that:

1. Identifies the location of the towers ***or other structures on*** which the ***applicant***[~~applying utility~~] attempted to co-locate[~~ on~~]; and
2. Lists the reasons why the co-location was unsuccessful in each instance.

(7) The local planning commission may deny a uniform application to construct a cellular antenna tower based on ***an applicant's***[~~a utility's~~] unwillingness to attempt to co-locate additional transmitting or related equipment on any new or existing towers ***or other structures***.

(8) In the event of co-location, a utility shall be considered the primary user of the tower, if the utility is the owner of the antenna tower and if no other agreement exists that prescribes an alternate arrangement between the parties for use of the tower. Any other entity that co-locates transmission or related facilities on a cellular antenna tower shall do so in a manner that does not impose additional costs or operating restrictions on the primary user.

SECTION 4. A NEW SECTION OF KRS 100.985 TO 100.987 IS CREATED TO READ AS FOLLOWS:

In regulating the placement of cellular antenna towers, a planning commission shall not:

(1) Regulate the placement of a cellular antenna tower on the basis of the environmental effects of radio frequency emissions to the extent that these facilities comply with the regulations of the Federal Communications Commission concerning radio frequency emissions;

(2) Institute a moratorium upon the siting of cellular antenna towers;

(3) Charge an application fee that exceeds an amount that is reasonably related to expenses associated with processing an application to construct a cellular antenna tower, up to a maximum of one thousand dollars ($1,000);

(4) Regulate the placement of antennas or related equipment on an existing cellular tower structure;

(5) Require the submission of application materials in addition to those required by Sections 3 and 5 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 100.985 TO 100.987 IS CREATED TO READ AS FOLLOWS:

In addition to the requirements of Section 3 of this Act, a uniform application shall include:

(1) The full name and address of the applicant.

(2) The applicant's articles of incorporation, if applicable;

(3) A geotechnical investigation report, signed and sealed by a professional engineer registered in Kentucky, that includes boring logs and foundation design recommendations;

(4) A written report, prepared by a professional engineer or land surveyor, of findings as to the proximity of the proposed site to flood hazard areas;

(5) Clear directions from the county seat to the proposed site, including highway numbers and street names, if applicable, with the telephone number of the person who prepared the directions;

(6) The lease or sale agreement for the property on which the tower is proposed to be located, except that, if the agreement has been filed in abbreviated form with the county clerk, an applicant may file a copy of the agreement as recorded by the county clerk and, if applicable, the portion of the agreement demonstrating compliance with KRS 100.987(2);

(7) The identity and qualifications of each person directly responsible for the design and construction of the proposed tower;

(8) A site development plan or survey, signed, and sealed by a professional engineer registered in Kentucky, that shows the proposed location of the tower and all easements and existing structures within five hundred (500) feet of the proposed site on the property on which the tower will be located, and all easements and existing structures within two hundred (200) feet of the access drive, including the intersection with the public street system;

(9) A vertical profile sketch of the tower, signed, and sealed by a professional engineer registered in Kentucky, indicating the height of the tower and the placement of all antennas;

(10) The tower and foundation design plans and a description of the standard according to which the tower was designed, signed, and sealed by a professional engineer registered in Kentucky;

(11) A map, drawn to a scale no less than one (1) inch equals two hundred (200) feet, that identifies every structure and every owner of real estate within five hundred (500) feet of the proposed tower;

(12) A statement that every person who, according to the records of the property valuation administrator, owns property within five hundred (500) feet of the proposed tower or property contiguous to the site upon which the tower is proposed to be constructed, has been:

(a) Notified by certified mail, return receipt requested, of the proposed construction which notice shall include a map of the location of the proposed construction;

(b) Given the telephone number and address of the local planning commission; and

(c) Informed of his or her right to participate in the planning commission's proceedings on the application.

(13) A list of the property owners who received the notice, together with copies of the certified letters sent to the listed property owners;

(14) A statement that the chief executive officer of the affected local governments and their legislative bodies have been notified, in writing, of the proposed construction;

(15) A copy of the notice sent to the chief executive officer of the affected local governments and their legislative bodies;

(16) A statement that:

(a) A written notice, of durable material at least two (2) feet by four (4) feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower on this site" and including the addresses and telephone numbers of the applicant and the planning commission, has been posted and shall remain in a visible location on the proposed site until final disposition of the application;

(b) A written notice, at least two (2) feet by four (4) feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower near this site" and including the addresses and telephone numbers of the applicant and the planning commission, has been posted on the public road nearest the site;

(17) A statement that notice of the location of the proposed construction has been published in a newspaper of general circulation in the county in which the construction is proposed;

(18) A brief description of the character of the general area in which the tower is proposed to be constructed, which includes the existing land use for the specific property involved;

(19) A statement that the applicant has considered the likely effects of the installation on nearby land uses and values and has concluded that there is no more suitable location reasonably available from which adequate service to the area can be provided, and that there is no reasonably available opportunity to locate its antennas and related facilities on an existing structure, including documentation of attempts to locate its antennas and related facilities on an existing structure, if any, with supporting radio frequency analysis, where applicable, and a statement indicating that the applicant attempted to locate its antennas and related facilities on a tower designed to host multiple wireless service providers' facilities or on an existing structure, such as a telecommunications tower or other suitable structure capable of supporting the applicant's antennas and related facilities; and

(20) A map of the area in which the tower is proposed to be located, that is drawn to scale, and that clearly depicts the necessary search area within which an antenna tower should, pursuant to radio frequency requirements, be located.

Section 6. KRS 278.650 is amended to read as follows:

[~~(1) If a utility proposes construction of an antenna tower for cellular telecommunications services or personal communications services which is to be located within a county containing a city of the first class, then the utility shall submit the proposal~~

~~to the planning commission of the affected planning unit prior to making application to the commission for a certificate of public convenience and necessity as required by KRS 278.020(1). The commission shall not grant a certificate of convenience and necessity in this situation until a final action on the proposal has been taken by the planning commission of the affected planning unit, or until the sixty (60) day time period set forth in KRS 100.324(5) has expired, whichever comes first.~~

~~(2) If a planning commission rejects a proposal to construct an antenna tower, the commission may override the decision of the planning commission and issue a certificate of convenience and necessity for construction of the cellular or personal communications services antenna tower, if it determines that there is no acceptable alternate site, and that the public convenience and necessity requires the proposed construction.~~

~~(3) Any party aggrieved by the final action of the Public Service Commission under subsections (1) and (2) of this section shall appeal from the action to the Franklin Circuit Court. The appeal shall be filed within thirty (30) days after the final action by the Public Service Commission. All final actions of the Public Service Commission which have not been appealed within thirty (30) days shall not be subject to judicial review.~~

~~(4)~~] If ***an applicant***[~~a utility~~] proposes construction of an antenna tower for cellular telecommunications services or personal communications services which is to be located ***in an***[~~outside the~~] area ***outside the jurisdiction of a planning commission, the applicant shall apply to the Public Service Commission for a certificate of public convenience and necessity pursuant to KRS 278.020(1), Section 7 of this Act, and this section. In reviewing the application,***[~~ of a county containing a city of the first class, then~~] the commission may[~~ also~~] take into account[~~ in its deliberations~~] the character of the general area concerned, and the likely effects of the installation on nearby land uses and values.

Section 7. KRS 278.665 is amended to read as follows:

(1) The commission shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish the minimum content of ***an***[~~a uniform~~] application[~~, provided under KRS 100.985(5),~~] for a certificate of convenience and necessity to construct cellular antenna towers ***for areas outside the jurisdiction of a planning commission***[~~, and the procedures to carry out the commission's responsibilities under KRS 100.987~~].

(2) The commission, in establishing the public notice requirements of ***an***[~~a uniform~~] application as provided for in subsection (1) of this section, shall distinguish between areas of low and high population densities. At a minimum, when the site of the proposed cellular antenna tower is outside of an incorporated city[~~ or within a rural service area in an urban county~~], the commission shall require that every person who owns property contiguous to the property where the proposed cellular antenna tower will be located receives notice by certified mail, return receipt requested, of the proposed construction, given the commission docket number under which the application will be processed, and informed of the opportunity to intervene in the ***commission proceedings on the*** application.[~~ The provisions of this subsection shall not apply to unincorporated areas within a county containing a city of the first class.~~]

Section 8. The following KRS section is repealed:

278.660 Confidentiality of uniform application and updates -- Penalty for violation.

Section 9. This Act takes effect September 15, 2002.

HB 650, AN ACT relating to water districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The following KRS section is repealed:

74.270 Monthly estimates -- Payment.

HB 679, AN ACT relating to transient room tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.390 is amended to read as follows:

(1) The commission shall annually submit to the local governing body or bodies which established it a request for funds for the operation of the commission. The local governing body or bodies shall include the commission in the annual budget and shall provide funds for the operation of the commission by imposing a transient room tax, not to exceed three percent (3%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. In addition to the three percent (3%), the local governing body may impose a special transient room tax not to exceed one percent (1%) for the sole purpose of meeting the operating expenses of a convention center. A transient room tax imposed by an urban-county government shall not exceed four percent (4%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. Transient room taxes shall not apply to the rental or leasing of an apartment supplied by an individual or business that regularly holds itself out as exclusively providing apartments. Apartment means a room or set of rooms, in an

apartment building, fitted especially with a kitchen and usually leased as a dwelling for a minimum period of thirty (30) days or more. The local governing body or bodies that have established a commission by joint or separate action shall enact an ordinance for the enforcement of the tax measure enacted pursuant to this section and the collection of the proceeds of this tax measure on a monthly basis.

(2) All moneys collected pursuant to this section and KRS 91A.400 shall be maintained in an account separate and unique from all other funds and revenues collected, and shall be considered tax revenue for the purposes of KRS 68.100 and KRS 92.330.

(3) A portion of the money collected from the imposition of this tax, as determined by the, tax levying body, upon the advice and consent of the tourist and convention commission, may be used to finance the cost of acquisition, construction, operation, and maintenance of facilities useful in the attraction and promotion of tourist and convention business. The balance of the money collected from the imposition of this tax shall be used for the purposes set forth in KRS 91A.350. Proceeds of the tax shall not be used as a subsidy in any form to any hotel, motel, or restaurant. Money not expended by the commission during any fiscal year shall be used to make up a part of the commission's budget for its next fiscal year.

(4) ***A city of the first class may impose an additional tax, not to exceed one and one-half percent (1.5%) of the room rent. This additional tax, if approved by the local governing body, shall be collected and administered in the same manner as the regular tax and shall be used for the purpose of funding additional promotion of tourist and convention business.***

(5) An urban-county government may impose an additional tax, not to exceed one percent (1%) of the room rents included in this subsection. This additional tax shall be collected and administered in the same manner as the regular tax with the exception that this additional tax shall be used for the purpose of funding the purchase of development rights program provided for under KRS 67A.845.

(6)[~~(5)~~] Local governing bodies which have formed multicounty tourist and convention commissions as provided by KRS 91A.350(3) may impose an additional tax, not to exceed one percent (1%) of the room rents. This additional tax, if approved by each governing body, shall be collected and administered in the same manner as the regular tax, with the exception that this additional tax shall be used for the purpose of funding regional efforts relating to the promotion of tourist and convention business and convention centers. In no event shall any revenues collected as provided for under KRS 91A.350(3) be utilized for the construction, renovation, maintenance, or additions to any convention center that is located outside the boundaries of the Commonwealth of Kentucky.

(7)[~~(6)~~] The commission, with the approval of the tax levying body, may borrow money to pay its obligations that cannot be paid at maturity out of current revenue from the transient room tax, but shall not borrow a sum greater than can be repaid out of the revenue anticipated from the transient room tax during the year the money is borrowed. The commission may pledge its securities for the repayment of any sum borrowed.

(8)[~~(7)~~] The fiscal court or legislative body of a city establishing a commission pursuant to KRS 91A.350(1) or (2) and, in its own name, a commission established pursuant to of KRS 91A.350(1) is authorized and empowered to issue revenue bonds pursuant to KRS Chapter 58 for public projects. Bonds issued for the purposes of KRS 91A.350 to 91A.390, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county or city. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58.

(9)[~~(8)~~] A commission established pursuant to KRS 91A.350(3) is authorized and empowered to issue revenue bonds in its own name, payable solely from its income and revenue, pursuant to KRS Chapter 58 for revenue bonds for public projects. Bonds issued for the purposes of KRS 91A.350 to 91A.390, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county. All bonds sold pursuant to this section shall be subject to competitive bidding as provided by law, and shall not bear interest at rates exceeding those for bonds issued for public projects under KRS Chapter 58.

Section 2. KRS 91A.392 is amended to read as follows:

(1) In addition to the three percent (3%) transient room tax authorized by KRS 91A.390 and the one percent (1%) transient room tax authorized by KRS 153.440, the fiscal court in a county containing a city of the first or second class, except those counties that are included in a multicounty tourist and convention commission under KRS 91A.350, may levy an additional transient room tax not to exceed two percent (2%) of the rent for every occupancy of a suite, room, or rooms charged by all persons, companies, corporations, or other similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or similar accommodations businesses.

(2) All money collected from the tax authorized by this section shall be applied toward the retirement of bonds issued pursuant to ***KRS 91A.390(8)***[~~KRS 91A.390(7)~~] to finance in part the expansion or construction or operation of a governmental or

nonprofit convention center or fine arts center useful to the promotion of tourism located in the central business district of the city of the first or second class located in the county.

(3) After the retirement of the bonds provided for in this section, the additional transient room tax levied pursuant to this section shall be void, and the fiscal court shall take action to repeal the ordinance which levied the tax.

The Committee Substitute to **HB 679,** is as follows:

HB 679, AN ACT relating to transient room tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.390 is amended to read as follows:

(1) The commission shall annually submit to the local governing body or bodies which established it a request for funds for the operation of the commission. The local governing body or bodies shall include the commission in the annual budget and shall provide funds for the operation of the commission by imposing a transient room tax, not to exceed three percent (3%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. In addition to the three percent (3%), the local governing body may impose a special transient room tax not to exceed one percent (1%) for the sole purpose of meeting the operating expenses of a convention center. A transient room tax imposed by an urban-county government shall not exceed four percent (4%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. Transient room taxes shall not apply to the rental or leasing of an apartment supplied by an individual or business that regularly holds itself out as exclusively providing apartments. Apartment means a room or set of rooms, in an apartment building, fitted especially with a kitchen and usually leased as a dwelling for a minimum period of thirty (30) days or more. The local governing body or bodies that have established a commission by joint or separate action shall enact an ordinance for the enforcement of the tax measure enacted pursuant to this section and the collection of the proceeds of this tax measure on a monthly basis.

(2) All moneys collected pursuant to this section and KRS 91A.400 shall be maintained in an account separate and unique from all other funds and revenues collected, and shall be considered tax revenue for the purposes of KRS 68.100 and KRS 92.330.

(3) A portion of the money collected from the imposition of this tax, as determined by the, tax levying body, upon the advice and consent of the tourist and convention commission, may be used to finance the cost of acquisition, construction, operation, and maintenance of facilities useful in the attraction and promotion of tourist and convention business. The balance of the money collected from the imposition of this tax shall be used for the purposes set forth in KRS 91A.350. Proceeds of the tax shall not be used as a subsidy in any form to any hotel, motel, or restaurant. Money not expended by the commission during any fiscal year shall be used to make up a part of the commission's budget for its next fiscal year.

(4) ***A county with a city of the first class may impose an additional tax, not to exceed one and one-half percent (1.5%) of the room rent. This additional tax, if approved by the local governing body, shall be collected and administered in the same manner as the regular tax and shall be used for the purpose of funding additional promotion of tourist and convention business.***

(5) An urban-county government may impose an additional tax, not to exceed one percent (1%) of the room rents included in this subsection. This additional tax shall be collected and administered in the same manner as the regular tax with the exception that this additional tax shall be used for the purpose of funding the purchase of development rights program provided for under KRS 67A.845.

(6)[~~(5)~~] Local governing bodies which have formed multicounty tourist and convention commissions as provided by KRS 91A.350(3) may impose an additional tax, not to exceed one percent (1%) of the room rents. This additional tax, if approved by each governing body, shall be collected and administered in the same manner as the regular tax, with the exception that this additional tax shall be used for the purpose of funding regional efforts relating to the promotion of tourist and convention business and convention centers. In no event shall any revenues collected as provided for under KRS 91A.350(3) be utilized for the construction, renovation, maintenance, or additions to any convention center that is located outside the boundaries of the Commonwealth of Kentucky.

(7)[~~(6)~~] The commission, with the approval of the tax levying body, may borrow money to pay its obligations that cannot be paid at maturity out of current revenue from the transient room tax, but shall not borrow a sum greater than can be repaid out of the revenue anticipated from the transient room tax during the year the money is borrowed. The commission may pledge its securities for the repayment of any sum borrowed.

(8)[~~(7)~~] The fiscal court or legislative body of a city establishing a commission pursuant to KRS 91A.350(1) or (2) and, in its own name, a commission established pursuant to of KRS 91A.350(1) is authorized and empowered to issue revenue bonds pursuant to KRS Chapter 58 for public projects. Bonds issued for the purposes of KRS 91A.350 to 91A.390, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The

payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county or city. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58.

(9)[~~(8)~~] A commission established pursuant to KRS 91A.350(3) is authorized and empowered to issue revenue bonds in its own name, payable solely from its income and revenue, pursuant to KRS Chapter 58 for revenue bonds for public projects. Bonds issued for the purposes of KRS 91A.350 to 91A.390, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county. All bonds sold pursuant to this section shall be subject to competitive bidding as provided by law, and shall not bear interest at rates exceeding those for bonds issued for public projects under KRS Chapter 58.

Section 2. KRS 91A.392 is amended to read as follows:

(1) In addition to the three percent (3%) transient room tax authorized by KRS 91A.390 and the one percent (1%) transient room tax authorized by KRS 153.440, the fiscal court in a county containing a city of the first or second class, except those counties that are included in a multicounty tourist and convention commission under KRS 91A.350, may levy an additional transient room tax not to exceed two percent (2%) of the rent for every occupancy of a suite, room, or rooms charged by all persons, companies, corporations, or other similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or similar accommodations businesses.

(2) All money collected from the tax authorized by this section shall be applied toward the retirement of bonds issued pursuant to ***KRS 91A.390(8)***[~~KRS 91A.390(7)~~] to finance in part the expansion or construction or operation of a governmental or nonprofit convention center or fine arts center useful to the promotion of tourism located in the central business district of the city of the first or second class located in the county.

(3) After the retirement of the bonds provided for in this section, the additional transient room tax levied pursuant to this section shall be void, and the fiscal court shall take action to repeal the ordinance which levied the tax.

HB 702, AN ACT relating to land surveys by state and local officers and employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 178.080 is amended to read as follows:

(1) When any person desires the establishment or alteration of a public road, bridge or landing, he shall petition the fiscal court ***in writing*** setting forth in his petition specifically the nature and location of the proposed work. The court shall thereupon appoint two (2) viewers who, together with the county road engineer, shall view the ground and report in writing the advantages and disadvantages which, in their opinion, will result to the individual and to the public from the proposed work and the grades and bearings of the proposed road, and other facts and circumstances that may enable the fiscal court to determine whether the work ought to be undertaken by the county.

(2) If the petition is for the establishment or alteration of a public road leading from a main public road, the report shall set out whether such road should be established, stating specifically whether it would be necessary to take any burying ground, garden, yard, orchard, or any part thereof, or to injure or destroy any buildings and the probable cost of the work, the names of the landowners whose property would have to be taken or injured, which of them would require compensation and the probable amount to which each would be entitled. They shall make careful examination of routes or locations other than that proposed or petitioned for, keeping in view the possible future development of the county and the accommodations of the general traveling public, and shall report in favor of the one they prefer, giving reasons for the preference. A map giving the grades and bearings of the routes or locations shall be returned with the report.

(3) If it appears to the fiscal court that the interests of the general public may be furthered thereby, the fiscal court shall personally examine the proposed work. If the court decides to undertake the proposed work the county judge/executive shall appoint a day for hearing the parties interested, and cause notices thereof to be given to all interested parties.

(4) If the county judge/executive at any time has sufficient evidence before him to enable him to ascertain what would be a just compensation to the proprietors and tenants, and if the proprietors and tenants are willing to accept what the county judge/executive deems just, the county judge/executive, upon such acceptance being reduced to writing and signed by the proprietors and tenants, may determine to undertake the work, subject to the consent and approval of the fiscal court.

(5) (a) A property owner who petitions the fiscal court in writing for the establishment of a public road leading from a main public road may offer to dedicate property for the creation of the public road;

(b) The offer to dedicate the property shall be in writing, shall include a description of the property proposed for dedication, shall be signed by the individual owner or all shareholders of the property proposed for dedication, and notarized;

(c) If the county opts to accept the property for the creation of a public road, the transfer of title of the ownership of the dedicated property shall not require the preparation or issuance of a deed for the dedicated property;

(d) Upon the transfer of the property to the county as provided in this subsection, the previous owner or any previous shareholders of the dedicated property and their heirs are prohibited from making any claims and shall have no ownership rights relative to the dedicated property; and

(e) A copy of the fiscal court resolution or ordinance accepting the dedicated property and the notarized property dedication offer shall be sufficient proof of ownership by the county for any claims against the property.

The Committee Amendment No. 1 Title to **HB 702** is as follows:

Amend title to read, "AN ACT relating to property dedicated for the establishment of county roads.".

SB 112, AN ACT relating to the finances of county fee officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

If a county clerk and sheriff are operating under the procedures applicable to counties equaling or exceeding populations of seventy thousand (70,000), and after the most recent federal decennial census the county population is less than seventy thousand (70,000), the county clerk and sheriff shall continue to operate and shall continue to be treated in the same manner as if the county's population equals or exceeds seventy thousand (70,000).

Section 2. KRS 64.345 is amended to read as follows:

(1) The county clerk and sheriff of each county having a population of seventy thousand (70,000) or over shall receive an annual salary pursuant to the salary schedule in KRS 64.5275.

(2) In counties containing a city of the first class and in counties having an urban-county form of government, the amount, if any, allowed for the necessary office expenses of each officer shall be approved by the fiscal court in counties containing a city of the first class and by the legislative body in counties containing an urban-county form of government. This approval shall be signed by the county judge/executive in a county containing a city of the first class and by the executive authority in a county having an urban-county form of government. Approval by the fiscal court or urban-county legislative body under this subsection shall not include oversight of expenditure of the funds. This oversight shall be retained by the Office of the Controller created pursuant to KRS 42.0201. In counties containing a city of the first class, each sheriff's deputy who uses his own automobile in the performance of official duties shall be authorized an allotment for expenses incurred, up to a maximum of three hundred dollars ($300) per month, to be paid out of the fees and commissions of the sheriff's office. In all other counties with a population of seventy thousand (70,000) or more, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the Finance and Administration Cabinet.

(3) Each officer shall, on the first day of each month, send to the Finance and Administration Cabinet a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month as fees or compensation for official duties and shall, with these statements, send to the Finance and Administration Cabinet the amount so collected or received. The Finance and Administration Cabinet may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(4) The salary of each officer and his deputies and assistants and his office expenses shall be paid semimonthly by the State Treasurer upon the warrant of the Finance and Administration Cabinet made payable to the officer. If seventy-five percent (75%) of the amount paid into the State Treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the Finance and Administration Cabinet to any officer for salaries and expenses exceed seventy-five percent (75%) of the amount paid to the Finance and Administration Cabinet by the officer during his official term.

(5) In counties containing a city of the first class and in counties having an urban-county form of government, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be approved at reasonable amounts upon motion of each officer by the fiscal court in counties containing a city of the first class and by the legislative body in counties containing an urban-county form of government. This approval shall be signed by the county judge/executive in a county containing a city of the first class and by the executive authority in a county having an urban-county form of government. Approval by the fiscal court or urban-county legislative body under this subsection shall not include oversight of expenditure of the funds. This oversight shall be retained by the Office of the Controller. In all other counties with a population of seventy thousand (70,000) or more, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as

entered, be forwarded to the Finance and Administration Cabinet.

(6) If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of Section 1 of this Act shall apply.

Section 3. KRS 64.346 is amended to read as follows:

(1) The fiscal court in counties containing a population of seventy thousand (70,000) or over may authorize and pay out of the general fund of the county for any expenditures which, in its discretion, are deemed necessary for the efficient operation of the offices of the county and Circuit Court clerk, sheriff, and jailer.

(2) If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of Section 1 of this Act shall apply.

Section 4. KRS 64.350 is amended to read as follows:

(1) In counties having a population of seventy thousand (70,000) or more, the salaries of the county clerks and sheriffs and of their deputies and all necessary office expenses, including the equipping, furnishing, maintaining, and operation of the offices, shall be paid out of the State Treasury in amounts not to exceed seventy-five percent (75%) of the fees collected by the officers respectively, and received into the treasury; and twenty-five percent (25%) of the fees collected by the officers respectively, and received into the State Treasury shall be paid in the manner provided by law for the payment of other claims against the state to the fiscal courts or urban-county governments of the respective counties. The amount of twenty-five percent (25%) of the fees collected by the jailers during each calendar year shall be paid to the fiscal courts or urban-county governments of the respective counties by April 1 of each year succeeding the calendar year during which the fees were received by the Finance and Administration Cabinet. The amount of twenty-five percent (25%) of the fees collected by the county clerks and sheriffs during each calendar year shall be paid to the fiscal courts or urban-county governments of the respective counties quarterly no later than April 15, July 15, October 15, and January 15. Each payment shall be for the preceding three (3) months during which fees were received by the Finance and Administration Cabinet. Adjustments necessary to insure that exactly twenty-five percent (25%) of fees collected are returned to the fiscal courts or urban-county governments shall be made in the January 15 payment. After payment of the salaries and expenses specified in this subsection, any remaining balance of the seventy-five percent (75%) of the fees collected by the officers respectively at the end of their official term shall be paid by the State Treasurer to the fiscal courts or urban-county government of the respective counties, subject to the provisions of subsection (2) of this section.

(2) Notwithstanding the provisions of subsection (1) of this section, all sums received into the State Treasury and representing seventy-five percent (75%) of the fees collected by the sheriffs specified in subsection (1) of this section from any county in which a metropolitan correctional services department has been established shall be expended from the State Treasury for the payment of the salaries and costs specified in subsection (1) of this section, and in Section 106 of the Constitution of Kentucky. After payment of the salaries and costs specified in this subsection, the remaining balance representing fees collected by sheriffs shall be paid by the State Treasury to the fiscal court of the county in which a metropolitan correctional services department has been established by April 1 of each year succeeding the calendar year in which the fees were received by the Finance and Administration Cabinet.

(3) If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of Section 1 of this Act shall apply.

Section 5. KRS 64.530 is amended to read as follows:

(1) Except as provided in subsections (5) and (6) of this section, the fiscal court of each county shall fix the compensation of every county officer and employee except the officers named in KRS 64.535 and the county attorney and jailer. The fiscal court may provide a salary for the county attorney.

(2) For the purposes of this section, justices of the peace and constables in all counties shall be deemed to be county officers and deputies or assistants of county officers shall be deemed to be county employees, but employees of county boards or commissions which are now authorized by law to fix the compensation of their employees shall not be deemed to be county employees for the purposes of this section.

(3) In the case of officers compensated from fees, or partly from fees and partly by salary, the fiscal court shall fix the maximum compensation that any officer except the officers named in KRS 64.535 may receive from both sources. The fiscal court may also fix the maximum amount that the officer may expend each year for expenses of his office. The fiscal court shall fix annually the maximum amount, including fringe benefits, which the officer may expend for deputies and assistants, and allow the officer to determine the number to be hired and the individual compensation of each deputy and assistant.

(4) In the case of county officers elected by popular vote and the county attorney, in the event the fiscal court provides him a salary, the monthly compensation of the officer and of his deputies and assistants shall be fixed by the fiscal court, consistent with the provisions of subsection (3) of this section, not later than the first Monday in May in the year in which the officers are elected, and the compensation of the officer shall not be changed during the term but the compensation of his deputies or assistants may be reviewed and adjusted by the fiscal court not later than the first Monday in May of any successive year upon the written request of the officer. On or before August 1, 1966, the fiscal court shall fix the salary provided herein for the county attorneys for the term commencing in January, 1966, notwithstanding any other provisions

of this section which may be inconsistent herewith.

(5) Nothing in this section shall apply to property valuation administrators or their deputies, assistants, and expenses, in any county, or to the circuit court clerk, county clerk, sheriff, jailer, and their deputies, assistants, and expenses, in counties having a population of seventy thousand (70,000) or more. ***If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of Section 1 of this Act shall apply.***

(6) Justices of the peace serving on a fiscal court in any county, and county commissioners serving on a fiscal court in any county other than one containing a city of the first, second, third, or fourth class, shall be paid for their services, out of the county treasury, not to exceed the maximum compensation allowable under KRS 64.527. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation shall be effective as to any member of a fiscal court during his term of office. The compensation of county commissioners serving on fiscal courts in counties containing a city of the first class shall not exceed nine thousand six hundred dollars ($9,600) per year; in counties containing cities of the second class it shall not exceed nine thousand dollars ($9,000) per year; and in counties containing cities of the third or fourth class it shall not exceed twenty percent (20%) more than the annual compensation paid in the county for the calendar year immediately preceding 1974; and all of said annual salaries shall be payable monthly. Justices of the peace and county commissioners shall not receive any compensation for their services on the fiscal court, other than as provided by this section; provided, however, justices of the peace and county commissioners may receive no more than three thousand six hundred dollars ($3,600) annually or three hundred dollars ($300) per month as an expense allowance for serving on committees of the fiscal court. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation except as provided in KRS 64.285 shall be effective as to any member of a fiscal court during his term of office.

Section 6. KRS 64.690 is amended to read as follows:

(1) Except as provided in KRS 64.610 and in this section, KRS 64.480 to 64.740 are intended to supersede any existing statute, fixing the compensation, or authorizing any public officer or body to fix the compensation, of any public officer or employee covered by KRS 64.480 to 64.740.

(2) Any public officer or body which has authority to fix the compensation of any state officer or employee covered by KRS 64.640 shall exercise such authority, subject to the schedule and limits of compensation for the particular office or position prescribed in KRS 64.640. The secretary of the Personnel Cabinet shall have the authority to monitor and require compliance with the provisions of this section and KRS 64.640 and 64.475.

(3) KRS 64.480 to 64.740 are not intended to supersede any existing statute, with respect to the compensation of circuit clerks, county clerks, sheriffs, master commissioners, and receivers, and their deputies and assistants, in counties containing a population of seventy thousand (70,000) or more, or property valuation administrators, their deputies, and assistants, in any county.

(4) If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of Section 1 of this Act shall apply.

Section 7. KRS 134.215 is amended to read as follows:

(1) An outgoing sheriff, as soon as his successor has been qualified and inducted into office and his official bond approved, shall immediately vacate his office, deliver to his successor all books, papers, records, and other property held by virtue of his office, and make a complete settlement of his accounts as sheriff, except as otherwise provided in this section.

(2) All unpaid tax bills and bills upon which partial payments have been accepted in the possession of the sheriff upon the date of expiration of his term shall be turned over to the incoming sheriff, who shall collect and account for them as provided by law. The outgoing sheriff shall take a receipt from the incoming sheriff for the unpaid and partially paid tax bills. This receipt shall show in detail for each unpaid and for each partially paid tax bill the total amount due each taxing district as shown upon the tax bills. Provided, however, in counties containing a population of seventy thousand (70,000) or over, the receipt shall show the total amount due each taxing district as shown upon the unpaid and partially paid tax bills. The receipt shall be signed and acknowledged by the incoming sheriff before the county clerk, filed with the county judge/executive, and recorded in the order book of the county judge/executive in the manner required by law for recording the official bond of the sheriff. A certified copy of the receipt as recorded in the order book of the county judge/executive shall be filed with the Revenue Cabinet. The outgoing sheriff and his bondsmen or sureties shall be relieved in securing his quietus and in the final settlement of his accounts of all responsibility for collecting and accounting for the amounts covered by the receipt, and the incoming sheriff shall be charged with full responsibility for collecting and accounting for these amounts as otherwise provided by law for the collection and accounting for taxes. ***If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of Section 1 of this Act shall apply.***

(3) Each outgoing sheriff shall make a final settlement with the Revenue Cabinet and the fiscal court and taxing district of his county by March 15 immediately following the expiration of his term of office for all charges of taxes made against him and for all money received by him as sheriff and to obtain his quietus, and immediately thereafter he shall deliver these records to the incumbent sheriff.

(4) For purposes of accounting for unpaid and partially paid tax bills, either the outgoing sheriff, the incoming sheriff, or both, may, by giving advance notice by publication pursuant to KRS Chapter 424, refuse to accept payment of ad valorem taxes during any or all of that portion of their terms of office from January 1 through January 15. Irrespective of whether the office refuses to accept payment of taxes during any or all of this fifteen (15) day period, both the incoming and outgoing sheriffs shall have working access to the office facilities and to the records and mail of the sheriff's office relating to the payment, collection, and refund of ad valorem taxes on property. Interest shall not be assessed or collected for the period during which payment of taxes is prohibited under the terms of this section.

(5) The outgoing sheriff shall be allowed and paid in accordance with KRS 64.140 and 64.530 the reasonable expenses actually incurred in preparing the receipt required under this section. Reasonable expenses actually incurred may include office expenses and salaries of himself, deputies, and employees paid in accordance with the schedule of the previous year or the amount paid an auditor necessary in determining, verifying, and recording the unpaid and partially paid tax bills turned over to the incoming sheriff.

Section 8. KRS 134.310 is amended to read as follows:

(1) The sheriff shall annually settle his accounts for county and district taxes with the fiscal court after making settlement with the Revenue Cabinet. The fiscal court shall appoint some competent person other than the Commonwealth's or county attorney to settle the accounts of the sheriff for money due the county or district. The cabinet, at the request of the fiscal court or any school district, may conduct the local settlement. If no local settlement has been initiated by July 1 of any year, the cabinet may initiate the local settlement on behalf of the local district. Upon completion of the local settlement, the cabinet may receive reasonable reimbursement for expenses incurred. The report of the state and local settlement shall be filed in the county clerk's office and approved by the county judge/executive no later than September 1 of each year. The settlement shall show the amount of ad valorem tax collected, and an itemized statement of the money disbursed.

(2) The settlement shall be published pursuant to KRS Chapter 424. The report of the settlement shall be subject to objections by the sheriff or by the county attorney, who shall represent the state and county, and the county judge/executive shall determine the objections. Objections shall be submitted to the county judge/executive within fifteen (15) days of the filing of the settlement in the clerk's office. If no objections are submitted, the settlement will become final.

(3) If the county judge/executive denies the objections, the sheriff may institute an action in Circuit Court within fifteen (15) days of receipt of the denial for review of the settlement and objections. Upon review, the Circuit Court shall issue its determination and the settlement shall become final. The final settlement shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810.

(4) On the final settlement, the sheriff shall pay to the county treasurer all money that remains in his hands, and take receipts as provided in KRS 134.300, and shall pay any additional amounts charged against him as a result of the settlements. If the sheriff fails to remit amounts charged against him the cabinet may issue bills for the subsequent year and may assume all collection duties in the name of and on behalf of the cities, counties, school districts, and other taxing districts to collect the taxes. In the performance of any tax collection duties undertaken by the cabinet, the cabinet shall have all the powers, rights, and authority for the collection of taxes established in Chapters 131, 132, 133, and 134 of the Kentucky Revised Statutes. The fees and commissions which the sheriff would have been entitled to receive from the taxing districts shall be paid to the cabinet.

(5) In counties containing a population of less than seventy thousand (70,000), the sheriff shall file annually with his final settlement:

(a) A complete statement of all funds received by his office for official services, showing separately the total income received by his office for services rendered, exclusive of his commissions for collecting taxes, and the total funds received as commissions for collecting state, county, and school taxes; and

(b) A complete statement of all expenditures of his office, including his salary, compensation of deputies and assistants, and reasonable expenses.

(6) At the time he files the statements required by subsection (5) of this section, the sheriff shall pay to the fiscal court any fees, commissions, and other income of his office, including income from investments, which exceed the sum of his maximum salary as permitted by the Constitution and other reasonable expenses, including compensation of deputies and assistants. The settlement for excess fees and commissions and other income shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810, and the provisions of this subsection shall not be construed to amend KRS 64.820 or 64.830.

(7) If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of Section 1 of this Act shall apply.

Section 9. KRS 18A.370 is amended to read as follows:

For the purposes of KRS 18A.375 to 18A.385, the term "state employee" shall mean all persons, including elected public officials, who are regularly employed by the executive, judicial, and legislative departments of government, except employees of the Transportation Cabinet and the University of Kentucky who have their own self-insurance fund. The term "state employee" shall also include volunteer firefighters and volunteer ambulance personnel; persons who are regularly employed by the Fayette County Health Department; and persons who are regularly employed by court clerks and sheriffs of counties with a population of seventy thousand (70,000) or more. ***If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of Section 1 of this Act shall apply.***

Section 10. KRS 64.121 is amended to read as follows:

(1) "Incapacity" means a condition under which a sheriff or his or her personal representative may apply to the Circuit or District Judge that presides over the sheriff's county for an order to determine that the sheriff is physically or mentally unable to discharge the duties of his or her office. The application to the Circuit or District Judge shall include and be supported by an affidavit by the sheriff's physician documenting the sheriff's incapacitating condition.

(2) If a sheriff in a county containing a population of less than seventy thousand (70,000) dies or is incapacitated during his or her term of office, the fiscal court of that county shall on or before the first day of March of the year following the death or date of incapacity of the sheriff pay to the sheriff or to the personal representative of the sheriff sufficient money to reimburse the sheriff or his or her estate for the salaries of his deputies and assistants and other necessary expenses of his or her office that were paid by the sheriff during the year of his or her death or incapacity. Additionally, for each month that the sheriff or his or her personal representative performed the duties of sheriff during the year of his or her death or incapacity, the fiscal court shall pay to the sheriff or to the sheriff's personal representative a sum of money equal to one-twelfth (1/12) of the total salary received by the county's sheriff in the year prior to the year of the death or incapacity. The sheriff's salary and all fees and commissions paid to the sheriff during the year of his or her death or incapacity shall be deducted from the amount that the sheriff or his or her personal representative is to receive by this section.

(3) If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of Section 1 of this Act shall apply.

Section 11. KRS 64.355 is amended to read as follows:

(1) It is hereby declared to be the intent of the General Assembly that all fees of the office of county clerk and sheriff in counties having a population of seventy thousand (70,000) or more that are paid into the State Treasury pursuant to the provisions of Section 106 of the Constitution of Kentucky are the property of the respective county, and these fees along with those collected by the circuit clerk shall be computed as part of the county's total tax effort for the purpose of determining credit for any federally funded program.

(2) If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of Section 1 of this Act shall apply.

SB 143, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.111 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative official" means any department, employee, or advisory, elected or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation;

(2) "Agricultural use" means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public, and shall also include, regardless of the size of the tract of land used, small wineries licensed under KRS 243.155, and farm wineries licensed under the provisions of KRS 243.156;

(3) "Board" means the board of adjustment unless the context indicates otherwise;

(4) "Citizen member" means any member of the planning commission or board of adjustment who is not an elected or appointed official or employee of the city or county;

(5) "Commission" means planning commission;

(6) "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;

(7) "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustment, consisting of two (2) parts:

  (a) A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and

  (b) A statement of the specific conditions which must be met in order for the use to be permitted;

(8) "Development plan" means written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing

manmade and natural conditions, and all other conditions agreed to by the applicant;

(9) "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;

(10) "Housing or building regulation" means the Kentucky Building Code, the Kentucky Plumbing Code and any other building or structural code promulgated by the Commonwealth or by its political subdivisions;

(11) "Legislative body" means the chief body of the city with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;

(12) "Mayor" means the chief elected official of the city whether the official designation of his office is mayor or otherwise;

(13) "Nonconforming use or structure" means an activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;

(14) "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;

(15) "Planning unit" means any city or county, or any combination of cities, counties, or parts of counties engaged in planning operations;

(16) "Plat" means the map of a subdivision;

(17) "Political subdivision" means any city or county;

(18) "Several" means two (2) or more;

(19) "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including, but not limited to, libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;

(20) "Street" means any vehicular way;

(21) "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs;

(22) "Subdivision" means the division of a parcel of land into three (3) or more lots or parcels except in a county containing a city of the first, second or third class or in an urban-county government where a subdivision means the division of a parcel of land into two (2) or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section;

(23) "Unit" means planning unit; and

(24) "Variance" means a departure from dimensional terms of the zoning regulation pertaining to the height, width, ***length,*** or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

The Committee on Transportation reported **HB 68,** with Committee Substitutes and Committee Amendment attached thereto, with expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee Substitute No. 2 to **HB 68** is as follows:

HB 68, AN ACT relating to seat belts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.125 is amended to read as follows:

(1) Except as otherwise provided in this section, "motor vehicle" as used in this section means every vehicle designed to carry ten (10) or fewer passengers and used for the transportation of persons, but the term does not include:

(a) Motorcycles;

(b) Motor driven cycles; or

(c) Farm trucks registered for agricultural use only and having a gross weight of one (1) ton or more.

(2) ***A***[~~No~~] person shall ***not*** sell any new ***motor***[~~passenger~~] vehicle in this state nor shall any person make application for registering a new passenger vehicle in this state unless the front or forward seat or seats have adequate anchors or attachments secured to the floor and/or sides to the rear of the seat or seats to which seat belts may be secured.

(3) Any driver of a motor vehicle, when transporting a child of forty (40) inches in height or less in a motor vehicle operated

on the roadways, streets, and highways of this state, shall have the child properly secured in a child restraint system of a type meeting federal motor vehicle safety standards.

(4) As used in this section, "child restraint system" means any device manufactured to transport children in a motor vehicle which conforms to all applicable federal motor vehicle safety standards.

(5) Failure to wear a child passenger restraint shall not be considered as contributory negligence, nor shall such failure to wear said passenger restraint system be admissible as evidence in the trial of any civil action. Failure of any person to wear a seat belt shall not constitute negligence per se.

(6) ***A***[~~No~~] person shall ***not*** operate a motor vehicle manufactured after 1965 on the public roadways of this state unless the driver and all passengers are wearing a properly adjusted and fastened seat belt, unless the passenger is a child who is secured as required in subsection (3) of this section. The provisions of this subsection shall not apply to:

(a) A person who has in his possession at the time of the conduct in question a written statement from a physician or licensed chiropractor that he is unable, for medical or physical reasons, to wear a seat belt;[~~ or~~]

(b) A letter carrier of the United States postal service while engaged in the performance of his duties***; or***

(c) A person who is an operator of, or passenger in, a motor vehicle when the seat belt is properly adjusted and fastened, and the seat belt fails to meet the recommendations of the National Highway Traffic Safety Administration and manufacturers' specifications for proper seat belt usage.

(7)[~~ A peace officer shall not stop or seize a person nor issue a uniform citation for a violation of subsection (6) of this section if the officer has no other cause to stop or seize the person other than a violation of subsection (6) of this section.~~

~~(8)~~] The provisions of ***subsection***[~~subsections~~] (6)[~~ and (7)~~] of this section shall supersede any existing local ordinance involving the use of seat belts. ***An***[~~No~~] ordinance contrary to ***subsection***[~~subsections~~] (6)[~~ and (7)~~] of this section ***shall not***[~~ may~~] be enacted by any unit of local government.

Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25). ***The fine shall be subject to prepayment. Between July 1, 2003, and July 1, 2004, a person who prepays the fine***

levied under this subsection shall not be required to pay court costs.

(26) Any person who violates any of the provisions of KRS 189.125(3), KRS 189.290, KRS 189.300, KRS 189.340, KRS 189.345, KRS 189.370, KRS 189.393, or KRS 189.505, shall, in addition to any other fine imposed by this chapter, pay an additional fee of ten dollars ($10). Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.

(27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(28) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

Section 3. KRS 431.452 is amended to read as follows:

(1) An offense which is designated as subject to prepayment by specific statutory designation may be prepaid by the violator subject to the terms and conditions of the statute involved.

(2) When an offense that is not designated as subject to prepayment by specific statutory designation is cited on the same citation with another offense that is subject to prepayment, the officer shall cite the violator to court for all cited offenses. However, if the offense for which prepayment is not allowed is dismissed by the judge prior to the court date listed on the citation, the offense subject to prepayment by specific statutory designation may be prepaid by the violator, and the violator shall not be required to appear in court.

(3) An offense which is designated as subject to prepayment is subject to the following conditions:

(a) Designation as subject to prepayment does not preclude a physical arrest by a peace officer for that offense;

(b) Designation as subject to prepayment shall preclude a requirement that the defendant make a court appearance on a uniform citation;

(c) ***Except as provided in subsection (25) of Section 2 of this Act,*** for any offense designated as subject to prepayment the defendant may elect to pay the minimum fine for the offense plus court costs to the circuit clerk before the date of his trial or be tried in the normal manner, unless the citation is marked for mandatory court appearance pursuant to KRS 431.015 or subsection (2) of this section, except that the fine for violations of KRS 189.221, 189.222, 189.226, 189.270, or 189.271 shall be in accordance with KRS 189.990(2)(a) and the defendant shall not be allowed to pay the minimum fine as otherwise allowed by this paragraph;

(d) Prepayment of the fine and costs shown on the citation or accompanying schedule shall be considered as a plea of guilty for all purposes.

(4) When a peace officer issues a uniform citation and no physical arrest is made he shall, where the citation is designated as subject to prepayment, mark the citation as "PAYABLE", except as provided in KRS 431.015 or subsection (2) of this section.

(5) The Administrative Office of the Courts, after consultation with the Kentucky State Police, the Transportation Cabinet, the Division of Forestry, the Division of Fish and Wildlife, and a representative of law enforcement shall develop a prepayable fine and cost schedule and a uniform statewide instruction sheet for the Commonwealth.

SECTION 4. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

All law enforcement agencies in this state shall be prohibited from erecting roadblocks for the sole purpose of checking for violations of KRS 189.125, with the exception of violations of child safety restraint provisions governed by KRS 189.125(3).

Section 5. Between the effective date of this section and July 1, 2003, all law enforcement agencies in this state shall be required to include educational materials on the benefits of wearing a seat belt when issuing a citation for a violation of KRS 189.125. The Justice Cabinet and the Transportation Cabinet shall ensure that appropriate educational materials are distributed to all law enforcement agencies.

Section 6. The provisions of Section 1 of this Act take effect July 1, 2003.

The Committee Amendment No. 1 Title to **HB 68** is as follows:

On page 1, amend the title to read as follows:

"AN ACT relating to traffic regulations.".

The Committee on Transportation reported **HB 117**, with Committee Substitute attached thereto, **HB 498**, with Committee Substitute attached thereto, **HB 685**, with Committee Substitute and Committee Amendment attached thereto, **HJR 92**, **HJR 140**, **HJR 157**, with Committee Substitute attached thereto, **HJR 167**, **HJR 168**, **HJR 169**, **SB 7**, **SB 18**, **SB 107**, with Committee Substitute attached thereto, **SJR 16**, with Committee Amendments attached thereto, **SJR 23** and **SJR 39**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 117, AN ACT relating to United States Selective Service System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) Any United States male citizen or immigrant who is at least eighteen (18) years of age but less than twenty six (26) years of age shall be registered for the United States Selective Service System when applying to the Transportation Cabinet for the issuance, renewal, or duplicate copy of:

(a) An operator's license;

(b) A commercial driver's license; or

(c) A nondriver identification card.

(2) This registration is in compliance with federal Selective Service System requirements.

(3) The Transportation Cabinet shall forward, in an electronic format, the necessary personal information required for registration of the applicants identified in this section to the Selective Service System via the American Association of Motor Vehicles Administrators Network.

(4) The applicant's submission of the application shall serve as an indication that the applicant has already registered with the Selective Service System, or that he is authorizing the Transportation Cabinet to forward the necessary information for registration to the Selective Service System.

(5) The Transportation Cabinet shall include the following statement on applications for licenses or identification cards described in this section: "By submitting this application, I am consenting to registration with the federal Selective Service System, if so required. If under eighteen (18) years of age, I understand that I will be registered as required by federal law when I attain eighteen (18) years of age."

The Committee Substitute to **HB 117** is as follows:

HB 117, AN ACT relating to United States Selective Service System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) Any United States male citizen or immigrant who is at least eighteen (18) years of age but less than twenty six (26) years of age shall be registered for the United States Selective Service System when applying to the Transportation Cabinet for the issuance, renewal, or duplicate copy of:

(a) An operator's license;

(b) A commercial driver's license; or

(c) A nondriver identification card.

(2) This registration is in compliance with federal Selective Service System requirements.

(3) The Transportation Cabinet shall forward, in an electronic format, the necessary personal information required for registration of the applicants identified in this section to the Selective Service System via the American Association of Motor Vehicles Administrators Network. If an applicant declines registration, the Transportation Cabinet shall forward the necessary personal information to the Selective Service System with the notation that automatic registration was declined.

(4) The applicant's submission of the application shall serve as an indication that the applicant has already registered with the Selective Service System, or that he is authorizing the Transportation Cabinet to forward the necessary information for registration to the Selective Service System.

(5) The Transportation Cabinet shall include the following statement on applications for licenses or identification cards described in this section: "By submitting this application, I am consenting to registration with the federal Selective Service System, if so required. If under eighteen (18) years of age, I understand that I will be registered as required by federal law when I attain eighteen (18) years of age." In the event the applicant declines Selective Service registration, the cabinet may issue an operator's license or nondriver identification card, but shall forward the necessary personal information to the Selective Service System.

HB 498, AN ACT relating to stopping distances at railroad crossings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.550 is amended to read as follows:

Operators of all buses and motor vehicles used for transporting children shall stop their vehicles before crossing any railroad when tracks are at the same level of the roadway. The stop shall be made not less than ***fifteen (15)***[~~ten (10)~~] feet nor more than ***fifty (50)***[~~thirty (30)~~] feet from the nearest track over which the highway crosses, except where the crossing is protected by gates or a flagman employed by the railroad. After making the stop, the operator shall open the service door and carefully look in each direction and listen for approaching trains or maintenance vehicles before proceeding.

Section 2. KRS 189.560 is amended to read as follows:

(1) The operator of a vehicle shall stop and remain standing at a railroad grade crossing when any of the following conditions exist:

  (a) A visible electric or mechanical signal device warns of the immediate approach of a railroad train;

  (b) A crossing gate is lowered warning of the immediate approach or passage of a railroad train;

  (c) An approaching train is visible and in hazardous proximity; or

  (d) A human flagman signals the approach or passage of a train.

(2) Whenever the tracks of any railroad or interurban railway over which trains or cars are regularly operated cross a state maintained highway at grade, the cabinet may designate that crossing as "unsafe," and no operator of any vehicle shall cross the crossing without first bringing his vehicle to a full stop at not less than ***fifteen (15) feet***[~~ten feet (10')~~], nor more than ***fifty (50) feet***[~~thirty feet (30')~~], from the nearest rail of the tracks.

(3) At crossings designated "unsafe," the cabinet shall place and maintain on each side of the tracks on the right side of the highway, at the marked stopping position, or, if the stopping position is not marked, on the pavement not more than 25' in advance of the track, an octagonal shape sign of a type and size currently approved for use by the cabinet bearing the word "Stop" in white letters not less than 10" in height.

(4) The cabinet shall install the signs described in subsection (3), within sixty (60) days after the crossing is designated unsafe.

(5) Subsections (2) to (4) shall not apply to grade crossings at which have been constructed and maintained gates, electric warning signals, or other automatic audible signals, or which are protected by watchmen.

(6) The failure to observe subsections (2) to (5) shall not change the liability of any railroad or interurban railway in the trial of any civil case against the railroad or interurban railway for death or injuries, to person or property.

(7) If subsection (6) is declared unconstitutional, then subsections (2) to (7) shall be ineffective.

Section 3. KRS 189.565 is amended to read as follows:

The operator of any motor vehicle used in the transportation of inflammable liquids or explosives shall stop such motor vehicle before crossing at grade the main track of any railroad or interurban electric railway, except where the crossing is a guarded crossing protected by gates or a flag controlled crossing or operated by an employee of the railroad or interurban company. The stop shall be made at not less than ***fifteen (15) feet***[~~ten feet (10')~~] nor more than ***fifty (50) feet***[~~thirty feet (30')~~] from the nearest track to be crossed. After making the stop, the operator shall look carefully in each direction for approaching cars or trains, and shall not start his vehicle until he has ascertained that no cars or trains are approaching in either direction.

The Committee Substitute to **HB 498** is as follows:

HB 498, AN ACT relating to stopping distances at railroad crossings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.550 is amended to read as follows:

Operators of all buses and motor vehicles used for transporting children shall stop their vehicles before crossing any railroad when tracks are at the same level of the roadway. The stop shall be made not less than ***fifteen (15)***[~~ten (10)~~] feet nor more than ***fifty (50)***[~~thirty (30)~~] feet from the nearest track over which the highway crosses, except where the crossing is protected by gates or a flagman employed by the railroad. After making the stop, the operator shall open the service door and carefully look in each direction and listen for approaching trains or maintenance vehicles before proceeding. ***If visibility is impaired at the required distance for stopping under this subsection, the operator may allow the vehicle to slowly roll forward for the purpose of gaining the visibility necessary to safely cross the railroad tracks.***

Section 2. KRS 189.560 is amended to read as follows:

(1) The operator of a vehicle shall stop and remain standing at a railroad grade crossing when any of the following conditions exist:

  (a) A visible electric or mechanical signal device warns of the immediate approach of a railroad train;

  (b) A crossing gate is lowered warning of the immediate approach or passage of a railroad train;

(c) An approaching train is visible and in hazardous proximity; or

(d) A human flagman signals the approach or passage of a train.

(2) Whenever the tracks of any railroad or interurban railway over which trains or cars are regularly operated cross a state maintained highway at grade, the cabinet may designate that crossing as "unsafe," and no operator of any vehicle shall cross the crossing without first bringing his vehicle to a full stop at not less than ***fifteen (15) feet***[~~ten feet (10')~~], nor more than ***fifty (50) feet***[~~thirty feet (30')~~], from the nearest rail of the tracks. ***If visibility is impaired at the required distance for stopping under this subsection, the operator may allow the vehicle to slowly roll forward for the purpose of gaining the visibility necessary to safely cross the railroad tracks.***

(3) At crossings designated "unsafe," the cabinet shall place and maintain on each side of the tracks on the right side of the highway, at the marked stopping position, or, if the stopping position is not marked, on the pavement not more than 25' in advance of the track, an octagonal shape sign of a type and size currently approved for use by the cabinet bearing the word "Stop" in white letters not less than 10" in height.

(4) The cabinet shall install the signs described in subsection (3), within sixty (60) days after the crossing is designated unsafe.

(5) Subsections (2) to (4) shall not apply to grade crossings at which have been constructed and maintained gates, electric warning signals, or other automatic audible signals, or which are protected by watchmen.

(6) The failure to observe subsections (2) to (5) shall not change the liability of any railroad or interurban railway in the trial of any civil case against the railroad or interurban railway for death or injuries, to person or property.

(7) If subsection (6) is declared unconstitutional, then subsections (2) to (7) shall be ineffective.

Section 3. KRS 189.565 is amended to read as follows:

The operator of any motor vehicle used in the transportation of inflammable liquids or explosives shall stop such motor vehicle before crossing at grade the main track of any railroad or interurban electric railway, except where the crossing is a guarded crossing protected by gates or a flag controlled crossing or operated by an employee of the railroad or interurban company. The stop shall be made at not less than ***fifteen (15) feet***[~~ten feet (10')~~] nor more than ***fifty (50) feet***[~~thirty feet (30')~~] from the nearest track to be crossed. After making the stop, the operator shall look carefully in each direction for approaching cars or trains, and shall not start his vehicle until he has ascertained that no cars or trains are approaching in either direction. ***If visibility is impaired at the required distance for stopping under this subsection, the operator may allow the vehicle to slowly roll forward for the purpose of gaining the visibility necessary to safely cross the railroad tracks.***

HB 685, AN ACT relating to salvage title assignments for insurance companies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.510 is amended to read as follows:

As used in KRS 186A.500 to 186A.550, unless the context otherwise requires:

(1) "Brand" means a designation that is affixed as required by this chapter, or that has previously been affixed, to a motor vehicle title that establishes a portion of the history of the motor vehicle and that shall be fixed to all subsequently issued titles for that vehicle;

(2) "Dealer" means a person or business as defined in KRS 190.010 who sells or offers for sale a motor vehicle;

(3) ***"Insurance company" means an insurer as defined in KRS 304.1-040;***

(4) "Junk vehicle" means a vehicle which meets the description set forth in KRS 186A.295(1)(a);

(5)[~~(4)~~] "Motor vehicle" means a motor vehicle as defined in KRS 186.010(8)(a) and (b);

(6)[~~(5)~~] "Owner" means a person who holds the legal title of a vehicle or a person who pursuant to a bona fide sale has received physical possession of the vehicle subject to any applicable security interest;

(7)[~~(6)~~] "Rebuilt vehicle" means a vehicle that has been repaired to a road worthy condition after having been registered as a salvage vehicle pursuant to KRS 186A.520, or a similar salvage designation from another licensing jurisdiction; and

(8)[~~(7)~~] "Water damage" means damage to a motor vehicle caused by submerging or partially submerging the vehicle in water to the extent that the vehicle was submerged or partially submerged at any water level above the dashboard of the vehicle, regardless of the actual dollar amount of the damage.

SECTION 2. A NEW SECTION OF KRS 186A.500 TO 186A.550 IS CREATED TO READ AS FOLLOWS:

(1) When an insurance company buys a motor vehicle currently registered and titled which the insurance company holds for resale, the insurance company shall not be required to obtain a certificate of title for the vehicle but may, within fifteen (15) days after acquiring the vehicle, notify the county clerk of the assignment of the vehicle to the insurance company and pay the fee for the title application as required by KRS 186A.130(1). If an insurance company does not want to assign the vehicle under the provisions of this section, the insurance company shall follow the procedures governing the issuance of a salvage title under KRS 186A.520 and 186A.530.

(2) Upon purchasing a salvage vehicle, an insurance company shall obtain from the transferor, properly executed, all documents required by KRS 186A.215, and shall include the odometer disclosure statement, together with a properly

assigned certificate of title.

(3) The insurance company choosing to execute an application for assignment shall do so upon documents designated by the Department of Vehicle Regulation to the county clerk of the county in which the insurance company or its agent maintains its principal place of business. The clerk shall enter the assignment into the AVIS system.

(4) The insurance company shall retain the properly assigned certificate of title received from his transferor, and may make only one (1) reassignment under this section. The insurance company may use the dealer assignment section on the Kentucky certificate of title for the purpose of the assignment under this section.

(5) When an insurance company assigns a salvage vehicle to a purchaser under this section, the insurance company or its agent shall deliver the properly assigned certificate of title, and other documents if appropriate, to the purchaser who shall apply for a Kentucky salvage title. The insurance company may, with the consent of the purchaser, deliver the assigned certificate of title, and other documents if appropriate, directly to the county clerk, and on behalf of the purchaser, apply for a salvage title on the vehicle.

Section 3. KRS 186A.520 is amended to read as follows:

(1) Except as provided in KRS 186A.555, a salvage title shall be obtained by the owner of a motor vehicle that meets the following definition of a salvage vehicle:

(a) A vehicle which has been wrecked, destroyed, or damaged, to the extent that the total estimated or actual cost of parts and labor to rebuild or reconstruct the vehicle to its preaccident condition and for legal operation on the roads or highways exceeds seventy-five percent (75%) of the retail value of the vehicle, as set forth in a current edition of the National Automobile Dealer's Association price guide.

(b) The value of repair parts for purposes of this definition shall be determined by using the current published retail cost of the parts equal in kind and quality to the parts to be replaced or the actual retail cost of the repair parts used in repair.

(c) The labor costs of repairs for purposes of this section shall be computed by using the hourly labor rate and time allocations which are reasonable and customary in the automobile repair industry in the community where the repairs are performed.

(2) *Except as provided in Section 2 of this Act,* the owner or an authorized agent of a motor vehicle that meets the definition of a salvage vehicle as set forth in subsection (1) of this section shall, within fifteen (15) days from the loss or settlement of the loss, submit an application to the county clerk, on a form prescribed by the Department of Vehicle Regulation, for a salvage title, accompanied by a properly endorsed certificate of title and any lien satisfactions, if any appear, as may be required.

(3) The county clerk shall retain a copy of each salvage title application received and shall forward the original and its supporting documents to the Department of Vehicle Regulation in a manner similar to that for handling of an application for a title.

(4) The Department of Vehicle Regulation shall process the salvage title application in a manner similar to that used in processing a title application and the salvage title shall be delivered in a like manner of a title. Salvage titles shall be construed as proof of ownership of a vehicle in a state as-to be unusable upon the highways of the Commonwealth. A vehicle shall not be issued a registration for highway use as long as a salvage title is in force.

(5) The only time a vehicle with a salvage title may be operated upon the highways of the Commonwealth is when it is in route to or from an inspection by the certified inspector prior to obtaining a certificate of title after having been rebuilt as per KRS 186.115.

The Committee Substitute to **HB 685** is as follows:

HB 685, AN ACT relating to salvage title assignments for insurance companies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.520 is amended to read as follows:

(1) Except as provided in KRS 186A.555, a salvage title shall be obtained by the owner of a motor vehicle that meets the following definition of a salvage vehicle:

(a) A vehicle which has been wrecked, destroyed, or damaged, to the extent that the total estimated or actual cost of parts and labor to rebuild or reconstruct the vehicle to its preaccident condition and for legal operation on the roads or highways exceeds seventy-five percent (75%) of the retail value of the vehicle, as set forth in a current edition of the National Automobile Dealer's Association price guide.

(b) The value of repair parts for purposes of this definition shall be determined by using the current published retail cost of the parts equal in kind and quality to the parts to be replaced or the actual retail cost of the repair parts used in repair.

(c) The labor costs of repairs for purposes of this section shall be computed by using the hourly labor rate and time allocations which are reasonable and customary in the automobile repair industry in the community where the repairs are performed.

(2) The owner or an authorized agent of a motor vehicle that meets the definition of a salvage vehicle as set forth in subsection (1) of this section shall, within fifteen (15) days from the loss or settlement of the loss, submit an application to the county clerk, on a form prescribed by the Department of Vehicle Regulation, for a salvage title, accompanied by a properly endorsed certificate of title and any lien satisfactions, if any appear, as may be required.

(3) The county clerk shall retain a copy of each salvage title application received and shall forward the original and its supporting documents to the Department of Vehicle Regulation in ***the same way applications are handled for speed titles***[~~a manner similar to that for handling of an application for a title~~].

(4) The Department of Vehicle Regulation shall process the salvage title application in ***the same way applications are processed for a speed title***[~~a manner similar to that used in processing a title application~~] and the salvage title shall be delivered in ***the same way as***[~~a like manner of~~] a ***speed*** title. Salvage titles shall be construed as proof of ownership of a vehicle in a state as to be unusable upon the highways of the Commonwealth. A vehicle shall not be issued a registration for highway use as long as a salvage title is in force.

(5) The only time a vehicle with a salvage title may be operated upon the highways of the Commonwealth is when it is in route to or from an inspection by the certified inspector prior to obtaining a certificate of title after having been rebuilt as per KRS 186.115.

Section 2. KRS 186A.130 is amended to read as follows:

There shall be paid for issuing and processing documents required by this chapter fees according to the following schedule:

(1) Each application for a certificate of title shall be six dollars ($6), of which the county clerk shall retain sixty-six and two-thirds percent (66-2/3%) and the Transportation Cabinet shall receive thirty-three and one-third percent (33-1/3%).

(2) Each application for a replacement or corrected certificate of title shall be four dollars ($4) of which, the county clerk shall retain three dollars ($3) and the Transportation Cabinet shall receive one dollar ($1). If a corrected certificate must be issued because of an error of the county clerk or the Department of Vehicle Regulation, there shall be no charge.

(3) Each application for a ***regular*** speed title shall be twenty-five dollars ($25), of which the county clerk shall retain five dollars ($5) and the Transportation Cabinet shall receive twenty dollars ($20). ***Each application for a salvage speed title shall be nine dollars ($9), which shall be divided between the county clerk and the Transportation Cabinet in the same manner as fees are divided under subsection (1) of this section.***

The Committee Amendment No. 1 Title to **HB 685** is as follows:

On page 1, amend the title to read as follows:

"AN ACT relating to salvage titles.".

HJR 92, A JOINT RESOLUTION directing the Transportation Cabinet and the Tourism Cabinet to study potential sites for a country music shrine on United States Route 23 near where United States Route 23 enters Kentucky in Greenup County.

WHEREAS, Kentucky's rich heritage of country music has been immortalized with the designation of United States Route 23 through the entire Commonwealth of Kentucky as the "Country Music Highway"; and

WHEREAS, sections of this road honor such luminaries as Billy Ray Cyrus, Loretta Lynn, Ricky Skaggs, Dwight Yoakam, Crystal Gayle, Hylo Brown, Patty Loveless, Gary Stewart, and the Judds; and

WHEREAS, the completion of a new U.S. Grant Bridge on United States Route 23 over the Ohio River is planned within the next two years; and

WHEREAS, Kentucky should attempt to capitalize on our history and our country music heritage by establishing some visible sign of the importance of these country music stars that would attract the attention of local citizens and tourists alike;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet and the Tourism Cabinet are directed to jointly study and recommend a location for a park, shrine, or memorial to the state's country music heritage and the stars honored by the Country Music Highway on land owned by the state adjacent to United States Route 23 near the U.S. Grant Bridge, entryway of US 23 into Kentucky from the state of Ohio. The Transportation and Tourism Cabinets shall report their findings to the Legislative Research Commission no later than October 31, 2002.

HJR 140, A JOINT RESOLUTION naming the "Silver Star Highway" in Morgan County.

WHEREAS, Perlie R. Price was born in Morgan County, Kentucky, on February 1, 1918, the son of Hughie and Delia Price; and

WHEREAS, Perlie Price heeded his nation's call to service during World War II by enlisting in the United States Army on October 27, 1942; and

WHEREAS, Staff Sergeant Perlie Price, as a member of the 329th Infantry, fought bravely for his country, seeing action in the D-Day invasion at Normandy and receiving the Purple Heart and Bronze Star; and

WHEREAS, Staff Sergeant Perlie Price received the Silver Star for his bravery during the Battle of the Bulge; and

WHEREAS, Perlie Price returned to civilian life and his home in Morgan County with his wife the former Maudie Harper, and his children Barbara, Betty, Phyliss, and Johnny; and

WHEREAS, Perlie Price continued to serve after his military career was over, working for the Department of Highways and for the Division of Forestry as Forest Warden for Morgan County until his retirement in 1980; and

WHEREAS, Perlie Price was instrumental in the establishment of the White Oak and Caney Valley Fire Departments and the Morgan County Rescue Squad, serving proudly as a member of both the rescue squad and the White Oak Fire Department; and

WHEREAS, the Armed Forces today, as they have for 225 years, defend our great nation from foreign powers that act against our national interests and seek to tarnish the principles of freedom and justice; and

WHEREAS, hundreds of patriotic men and women of Morgan County have answered their nation's call to service in times of great need; and

WHEREAS, our veterans, especially those who have been decorated with the Silver Star, deserve our gratitude and recognition for their devotion and service to our Commonwealth and our nation;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name United States Route 460 in Morgan County from the intersection of Kentucky Route 7 to the Magoffin County line the "Silver Star Highway."

Section 2. The Transportation Cabinet shall erect appropriate highway signs naming the "Silver Star Highway" within thirty days after the effective date of this Resolution.

HJR 157, A JOINT RESOLUTION naming the Veterans Memorial Highway in Allen County.

WHEREAS, it is the Armed Forces of the United States that defend our great nation from foreign powers and rogue terrorist groups that seek to destroy our country; and

WHEREAS, countless soldiers, sailors, airmen, and marines have risked their lives in defense of the Constitution that makes our country the model for the free world; and

WHEREAS, rows of plain white headstones, both here at home and around the world, stand as a testimony to the ultimate sacrifice made to protect our principles of freedom and justice; and

WHEREAS, every citizen of the Commonwealth owes a great debt of gratitude not only to the patriotic men and women killed and wounded in service to their country, but to the men and women currently serving the United States during this time of great need;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name Kentucky Route 980 in Allen County from the intersection of the new United States Route 31E to the intersection of old United States Route 31E the "Veterans Memorial Highway."

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs on the segment of Kentucky Route 980 designated in Section 1 of this Resolution that read "Veterans Memorial Highway."

The Committee Substitute to **HJR 157** is as follows:

HJR 157, A JOINT RESOLUTION naming the Veterans Memorial Highway in Allen County.

WHEREAS, it is the Armed Forces of the United States that defend our great nation from foreign powers and rogue terrorist groups that seek to destroy our country; and

WHEREAS, countless soldiers, sailors, airmen, and marines have risked their lives in defense of the Constitution that makes our country the model for the free world; and

WHEREAS, rows of plain white headstones, both here at home and around the world, stand as a testimony to the ultimate sacrifice made to protect our principles of freedom and justice; and

WHEREAS, every citizen of the Commonwealth owes a great debt of gratitude not only to the patriotic men and women killed and wounded in service to their country, but to the men and women currently serving the United States during this time of great need;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name Kentucky Route 980 in Allen County from the intersection of United States Route 31E to Kentucky Route 100 the "Veterans Memorial Highway."

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs on the segment of Kentucky Route 980 designated in Section 1 of this Resolution that read "Veterans Memorial Highway."

HJR 167, A JOINT RESOLUTION memorializing former State Senator Gates F. Young.

WHEREAS, Gates Young was born in Calhoun, Kentucky in 1891, the son of John B. and Brownie Young; and

WHEREAS, Gates Young served as a legislative page during the 1904 Regular Session of the Kentucky General Assembly; and

WHEREAS, Gates Young practiced law and worked as a journalist in Owensboro early in his adult life; and

WHEREAS, in 1929, Gates Young was elected by the people of Daviess, McLean, and Hancock Counties to represent them in the Kentucky State Senate; and

WHEREAS, Gates Young later moved to Louisville to practice law and was elected in 1957 to the State Senate representing Jefferson County; and

WHEREAS, Gates Young also served the Senate in such constitutional offices as Sergeant-at-arms, Janitor, Assistant Clerk, and Clerk; and

WHEREAS, Gates Young, a longtime horse racing enthusiast, served as assistant to the president of Churchill Downs and manager of the old Latonia Race Track; and

WHEREAS, Gates Young established the John B. and Brownie Young Educational Scholarship Fund and served as a member of many boards and charitable organizations during his long career in public service; and

WHEREAS, Gates Young should be honored for a lifetime of achievement;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name Kentucky Route 136 in McLean County from the intersection of Kentucky Route 81 to the Ohio County line the "Gates F. Young Memorial Highway."

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs at each end of the route specified in Section 1 of this Act that read "Gates F. Young Memorial Highway."

HJR 168, A JOINT RESOLUTION memorializing Amber Henton Hardin.

WHEREAS, Amber Henton Hardin was born in 1914 in the Community of Buel in McLean County; and

WHEREAS, Amber Henton Hardin graduated from Livermore High School and Murray State Teachers College; and

WHEREAS, Amber Henton Hardin taught in the Bullitt and Daviess County school districts and at the Owensboro Business College; and

WHEREAS, Amber Henton Hardin served for seventeen years with the Social Security Administration in Owensboro and Madisonville; and

WHEREAS, Amber Henton Hardin was a member of the Livermore City Council from 1973 to 1977, and served as Mayor of Livermore from 1978 to 1991; and

WHEREAS, during her tenure as Mayor, Amber Henton Hardin was instrumental in the building of the Senior Citizens Apartments, a senior citizens center, and a water sewage treatment plant; and

WHEREAS, Amber Henton Hardin also helped to establish a gas system for the city and to return a public library to Livermore; and

WHEREAS, Amber Henton Hardin received several awards and commendations for her service in local government; and

WHEREAS, Amber Henton Hardin was survived by her husband, C. W. Hardin and two stepsons; and

WHEREAS, the life and service of Amber Henton Hardin should be celebrated and remembered;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name the bridge on United States Route 431 over the Green and Pond Rivers south of Livermore in McLean County the "Amber Henton Hardin Memorial Bridge."

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs at each end of the bridge specified in Section 1 of this Act that read "Amber Henton Hardin Memorial Bridge."

HJR 169, A JOINT RESOLUTION naming the "Coal Miners Memorial Highway" in Bell County.

WHEREAS, coal mining and the coal industry have long been mainstays of the economy of the Commonwealth; and

WHEREAS, Bell County is in the heart of the great coal region in Eastern Kentucky; and

WHEREAS, too often brave miners on a seemingly ordinary day at the job never returned from the mines, leaving behind widows and orphans and grieving families and towns; and

WHEREAS, the legacy and sacrifice of these miners should be recognized and honored by the General Assembly and all citizens of the Commonwealth who benefit from the fruits of their labors;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name Kentucky Route 72 in Bell County the "Coal Miners Memorial Highway."

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs at each end of the route specified in Section 1 of this Act that read "Coal Miners Memorial Highway."

SB 7, AN ACT relating to special spay neuter license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The owner or lessee of a motor vehicle registered under the provisions of KRS 186.050(1) or (3)(a) may apply for a special spay neuter license plate in the office of the county clerk in the county where the person lives. At the time the owner or lessee applies for a special spay neuter license plate, the person shall include with the application the initial state fee of fifty dollars ($50). The county clerk shall inform the owner or lessee that the person's application and state fee shall be sent to Frankfort to the Transportation Cabinet where it may be held for a period not to exceed one (1) year while the cabinet is waiting to receive sufficient applications subject to the provisions of subsection (2) of this section.

(2) The Transportation Cabinet shall be required to begin designing and printing special spay neuter license plates after the cabinet has received nine hundred (900) applications accompanied by a fifty dollar ($50) state fee within a one (1) year period. The purpose of the fifty dollar ($50) state fee is to offset computer programming costs incurred by the cabinet. Unless the cabinet is requested in writing to the contrary, if the cabinet has not received nine hundred (900) applications within one (1) year from the date the cabinet receives the first application for a special spay neuter license plate, the cabinet shall refund the fifty dollar ($50) state fee to the appropriate applicants.

(3) Subject to the provisions of subsection (2) of this section, the total initial application fee for the first nine hundred (900) special spay neuter license plates printed by the Transportation Cabinet shall be sixty-three dollars ($63). The sixty-three dollar ($63) fee shall be divided as follows:

(a) The Transportation Cabinet shall receive a fee of fifty dollars ($50) that includes the state fee to reflectorize the license plate under KRS 186.240(2)(c);

(b) The county clerk shall receive a fee of three dollars ($3); and

(c) The remaining ten dollar ($10) fee collected from the applicant shall be remitted to the Transportation Cabinet to be handled subject to the provisions of subsection (9) of this section.

(4) The initial application fee for each special spay neuter license plate printed by the Transportation Cabinet in excess of nine hundred (900) shall be twenty-five dollars ($25). The twenty-five dollar ($25) fee shall be divided as follows:

(a) The Transportation Cabinet shall receive a fee of twelve dollars ($12) that includes the state fee to reflectorize the license plate under KRS 186.240(2)(c);

(b) The county clerk shall receive a fee of three dollars ($3); and

(c) The remaining ten dollar ($10) fee collected from the applicant shall be remitted to the Transportation Cabinet to be handled subject to the provisions of subsection (9) of this section.

(5) A special spay neuter license plate shall annually be issued a renewal registration decal during the owner's or lessee's birth month. The annual renewal fee shall be twenty dollars ($20) and shall be divided as follows:

(a) The Transportation Cabinet shall receive a fee of twelve dollars ($12) that includes the state fee to reflectorize the license plate under KRS 186.240(2)(c);

(b) The county clerk shall receive a fee of three dollars ($3); and

(c) The remaining five dollar ($5) fee collected from an applicant renewing an annual registration shall be remitted to the Transportation Cabinet to be handled subject to the provisions of subsection (9) of this section.

(6) Except as provided in this subsection, the special spay neuter license plate shall be replaced on the same schedule that regular license plates are replaced by the Transportation Cabinet under KRS 186.240. A special spay neuter license plate shall be replaced free of charge if the metal plate is destroyed in an accident, deteriorates to a point that the lettering, numbering, or images on the face of the plate are not legible, or is stolen, if the owner or lessee has not transferred the vehicle issued the plate during the current licensing period.

(7) A person seeking a special spay neuter license plate for a vehicle provided as part of the person's occupation shall conform to the requirements of KRS 186.050(14).

(8) Upon the sale, transfer, or termination of a lease of a vehicle licensed under this section, the owner or lessee shall remove the special spay neuter license plate and return it and the certificate of registration to the county clerk. The county clerk shall reissue the owner or lessee a regular license plate and certificate of registration upon payment of a twelve dollar ($12) state fee that includes the state fee to reflectorize the license plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee. If the owner or lessee requests, the county clerk shall reissue the special spay neuter license plate free of charge for use on any other vehicle of the same classification and category owned by the person during the current licensing period. If the owner or lessee has the special spay neuter license plate reissued to another vehicle, the regular license plate that is being replaced shall be returned to the county clerk who shall forward the plate to the Transportation Cabinet.

(9) All funds received by the Transportation Cabinet under subsection (3)(c), (4)(c), and (5)(c) of this section shall be transmitted annually to the animal control and care fund established under KRS 258.119, and shall be used exclusively for the development and promotion of spay neuter programs in the Commonwealth.

(10) Special spay neuter license plates shall be of a design developed by the Animal Control Advisory Board and approved by the Transportation Cabinet.

Section 2. This Act takes effect January 1, 2003.

SB 18, AN ACT relating to naming state roads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.010 is amended to read as follows:

As used in KRS 177.010 to 177.890, unless the context otherwise requires:

(1) "Department" means Department of Highways of the Commonwealth of Kentucky;

(2) "Construct" includes reconstruct and improve;

(3) "Roads" includes rural roads; highways; bridges and bridge approaches; city streets, viaducts, and bridges;

(4) "Rural and secondary roads" includes:

(a) A county road as defined in KRS 178.010(1)(b);

(b) A publicly-owned road other than a state or federal highway, that is outside a city, town, or urban area having a population of twenty-five hundred (2,500) or more;

(c) A road that is classified as part of the rural secondary road system by the Department of Highways;~~[and]~~

(5) "Public grade crossing" means the at-grade intersection of a railroad track or tracks and a road or highway that has been dedicated to public use and incorporated into either the state primary road system or the highway or road system of a county or municipality*;*

(6) "Cabinet" means the Kentucky Transportation Cabinet; and

(7) "Secretary" means the secretary of the Kentucky Transportation Cabinet.

Section 2. KRS 177.074 is amended to read as follows:

(1) Every road which is part of the state primary system shall be identified by a specific route number or name which shall be designated on the official state road map. In addition to a route number, the secretary*:*~~[of transportation]~~

(a) Shall name a road or road segment to comply with the provisions of subsections (2) and (3) of this section; and

(b) May*, at the secretary's discretion, or subject to the provisions of subsection (4) of this section,* name a road or bridge on the state highway system after an individual, historic event, or any other name which may be of significance to the history of this Commonwealth or any of its counties or communities.

(2) *The secretary shall, within thirty (30) days of receipt of a written request by the commissioner of the Kentucky State Police, name a state road or segment of a state road, in memory and honor of one (1) or more Kentucky state troopers killed in the line of duty. The written request shall comply with the provisions of subsection (4) of this section and shall include:*

(a) The trooper's name;

(b) The name and address of any living relatives of the trooper, if known;

(c) Date and circumstances of the trooper's death; and

(d) The route number and current name of the state road where the trooper was killed if applicable, or the route number and current name of the state road closest to the deceased trooper's home.

(3) The written request required under subsection (2) of this section shall identify the route number, current name of the state road, or milepoints of the specific segment of state road the State Police are requesting be named in honor and memory of a state trooper killed in the line of duty. The road or road segment identified in the request shall be either the state road where the trooper was killed, or the state road closest to the deceased trooper's home. The cabinet shall consult with the commissioner of the Kentucky State Police on the design of the road signs naming the state road or road segment in honor and memory of each trooper, and the cabinet shall erect the appropriate highway signs within thirty (30) days of receipt of the written request required under subsection (2) of this section.

(4) If the road segment identified in the request under subsection (2) of this section has already been named for another individual or organization, either by action of the General Assembly or by order of the secretary, the State Police and the cabinet shall consult on and determine an alternate location that is acceptable to both agencies.

(5) The secretary shall be petitioned by a unit of local government, civic organization, or other interested party before naming a road or bridge on the state primary road system. In addition, the secretary shall be convinced by the petitioner that the person or event that the road or bridge is being named for is of civic or historical significance.

(6)[~~(3)~~] Except as provided in subsections *(9) and (10)*[~~(6) and (7)~~] of this section, the secretary shall name a road or bridge upon direction by joint resolution of the General Assembly. Upon introduction of a resolution, the secretary shall inform the chairman of the committee to which the resolution is assigned as to whether he has been petitioned to name a road or bridge presented in the resolution and if so petitioned, his reasons for not taking action on the request.

(7)[~~(4)~~] If the secretary grants the request to name a road or bridge through petition, the signs to be placed on the roads shall become the responsibility of the petitioner with the design and placement of the signs approved by the department. If the signs are to be placed as a result of a resolution passed by the General Assembly, the responsibility for placement of the signs shall be upon the Department of Highways.

(8)[~~(5)~~] The Transportation Cabinet may adopt administrative regulations to implement the road and bridge naming program. The administrative regulations shall at a minimum establish basic standards for design and placement of signs or allow the local entity to reimburse the Transportation Cabinet for the cost of manufacturing and installing the signs for which a petition has been granted.

(9)[~~(6)~~] The new proposed truck bypass around Mayfield, Kentucky, shall be named the "Dick Castleman Bypass", after former State Representative Dick Castleman.

(10)[~~(7)~~] The bridge on United States Highway 27 over the Kentucky River near Camp Nelson, between Jessamine and Garrard Counties, shall be named the "Loyd Murphy Memorial Bridge".

Section 3. Within thirty (30) days of the effective date of this Act, the commissioner of the Kentucky State Police shall submit a written request under the provisions of subsections (2) and (3) of Section 2 of this Act, for the twenty-three (23) state troopers that have been killed in the line of duty since 1948. The Transportation Cabinet shall erect the appropriate highway signs honoring the twenty-three slain troopers within thirty (30) days of receipt of ~~the~~ written request directed under this section.

SB 107, AN ACT relating to license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.041 is amended to read as follows:

(1) The provisions of this section shall govern the issuance of all special military-related license plates. Except as provided in subsection (9) of this section, a person who wants to purchase a special military-related license plate shall apply to the county clerk in the county where the person lives on a form prescribed by the Transportation Cabinet. Each initial and renewal application shall be accompanied by proof that the person is associated with the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Coast Guard, United States Coast Guard Auxiliary, Kentucky National Guard, Merchant Marines with service between December 7, 1941, and August 15, 1945, or Civil Air Patrol in one (1) of the following ways:

(a) An active component member;

(b) A retired member; or

(c) A veteran who received a discharge under honorable conditions, or the veteran's widow and:

1. Performed twenty-four (24) months of active-duty service;

2. Received an early release due to injuries or other medical condition, or at the convenience of the service;

3. Received a hardship discharge;

4. Was separated or retired due to a disability; or

5. Was determined to have a service-connected disability incurred during the enlistment.

(2) Initial registration and renewal registration fees for special military-related license plates shall be charged as provided in this subsection ***and Section 2 of this Act***:

(a) Disabled veterans and recipients of the Congressional Medal of Honor licensed under subsection (5) of this section shall not be charged an initial registration fee and shall not be charged a renewal registration fee. The license plate and certificate of registration shall be issued free of charge***.***~~[;]~~

(b) The initial registration fee shall be a seventeen dollar ($17) state fee that shall be divided under the provisions of subsection (3) of this section and that includes the cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee, and the renewal registration fee shall be a three dollar ($3) county clerk fee for:

1. Former prisoners of war licensed under subsection (11) of this section;

2. Survivors of Pearl Harbor licensed under subsection (12) of this section; and

3. Members of the National Guard licensed under subsection (13) of this section.

(c) The initial registration fee shall be a seventeen dollar ($17) state fee that shall be divided under the provisions of subsection (3) of this section, and the renewal registration fee shall be a twelve dollar ($12) state fee that includes the cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee for:

1. Disabled veterans licensed under subsection (6) of this section;

2. Purple Heart recipients licensed under subsection (10) of this section, except that if a Purple Heart recipient also qualifies as a disabled veteran under subsection (5) of this section, the Purple Heart recipient may receive either a Purple Heart or a disabled veteran's license plate, both initial and renewal, and the certificate of registration free of charge;

3. Members of the Civil Air Patrol licensed under subsection (14) of this section; and

4. Other active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Merchant Marines licensed under subsection (15) of this section.

(d) Recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross licensed under subsection (9) of this section shall be charged an initial registration fee and a renewal registration fee of three dollars ($3.00) that shall be retained by the county clerk. A recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross licensed under subsection (9) of this section shall not be charged a state fee when initially receiving the plate or upon annual renewal of the plate.

(e) The initial and renewal registration fee for a military license plate that has been combined with a personalized license plate under the provisions of this section shall be as provided under Section 2 of this Act.

(3) The initial state fee collected under subsections (2)(b) and (2)(c) of this section shall be divided between the Transportation Cabinet and the Department of Veterans' Affairs. The Transportation Cabinet shall receive twelve dollars ($12) of the initial state fee and the Department of Veterans' Affairs shall receive five dollars ($5) of the initial state fee. The county clerk shall forward money collected under subsections (2)(b) and (2)(c) of this section to the Department of Veterans' Affairs on a quarterly basis and the department shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b). A person renewing a special military license plate issued under this section may donate five dollars ($5) to support the veteran's program trust fund. Money donated under this subsection shall be paid to the county clerk who shall forward the money on a quarterly basis to the Department of Veterans' Affairs and the department shall deposit the money into the veteran's program trust fund established by KRS 40.460(2)(b).

(4) A special military-related license plate may be issued for use on a passenger car registered under KRS 186.050(1) or for a commercial vehicle registered under KRS 186.050(3)(a) that has a gross laden weight of six thousand (6,000) pounds or less. Except as provided in subsection (7) of this section ***and Section 2 of this Act***, a license plate issued under this section shall have the renewal registration decal issued annually during the applicant's birth month ***and***~~[. License plates issued under this section]~~ shall be a five (5) year license plate. The member, retired member, veteran, or reservist may purchase two (2) special military-related license plates annually for vehicles they own or lease. ***A license plate issued under this section may be combined with a personalized license plate under the provisions of Section 2 of this Act.***

(5) A recipient of the Congressional Medal of Honor, a recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross, or a disabled veteran who has been or shall be given financial assistance toward the purchase or lease of a motor vehicle by the United States Department of Veterans Affairs under the provisions of 38 U.S.C. sec. 1901, or any other public law that may be passed by the Congress of the United States shall initially and annually be issued a certificate of registration and a special military-related license plate free of charge.

(6) A veteran who has been declared to be at least seventy percent (70%) service-connected disabled by the United States Department of Veterans Affairs, or who is receiving total service-connected disability rating for compensation on individual unemployability, and who has not received financial assistance from the United States Department of Veterans Affairs toward the purchase or lease of a motor vehicle shall be eligible for a disabled veterans license plate upon payment of the initial registration fee required in subsection (2)(c) of this section.

(7) A disabled veterans license plate shall be printed in red, white, and blue colors. Half of the license plate shall be in one (1)

color, the other half a second color, and the figures and lettering in the third color. Each plate shall contain the international symbol of access adopted by Rehabilitation International in 1969, the name of the state, the year, the registration number, and the words "Disabled Vet." A disabled veterans license plate shall have the renewal registration decal issued annually on July 31.

(8) A recipient of the Congressional Medal of Honor shall be eligible for a Congressional Medal of Honor license plate that shall be printed in blue and white colors and shall follow the color scheme for all figures and letters as prescribed for passenger cars. Each plate shall contain the name or an abbreviation of the state and the words "Medal of Honor" and a number uniquely identifying each recipient, in lieu of registration numbers.

(9) A recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross shall be eligible for a Service Cross license plate upon submission of an application to the Kentucky Department of Veterans' Affairs. The recipient shall be required to include with the initial application for a Service Cross license plate a copy of the general order that authorized the award and the recipient's Department of Defense form number 214. The Department of Veterans' Affairs shall verify the documentation submitted with the application for a Service Cross license plate, and if the individual applying for the plate is confirmed to be a recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross, the Department of Veterans' Affairs shall submit the applicant's name to the Transportation Cabinet's Division of Motor Vehicle Licensing not later than September 1 preceding the year that the Service Cross license plate is to be initially issued or renewed. When the Service Cross license plate is ready, the plate shall be sent to the county clerk in the county of the applicant's residence. The Transportation Cabinet's Division of Motor Vehicle Licensing shall inform each applicant in writing that the Service Cross license plate is ready and may be picked up at the county clerk's office. Each Service Cross license plate shall contain the name or an abbreviation for the state and an alphabetic or numeric designation uniquely identifying each recipient of a Service Cross license plate in lieu of registration numbers. The Transportation Cabinet shall have the authority to select three (3) designs and the appropriate color scheme for each design of the Service Cross license plate. In addition to the requirements of this subsection, the Transportation Cabinet shall have the authority to include other information on the Service Cross license plate. The Transportation Cabinet shall prescribe the type of application form required by this subsection and shall supply the Department of Veterans' Affairs with the application form required by this subsection.

(10) A recipient of a Purple Heart medal shall be eligible for a Purple Heart license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Purple Heart license plate shall bear the name "Purple Heart," a registration number, and an appropriate logo to be determined by the Transportation Cabinet.

(11) A person who is a former prisoner of the enemy during World War I, World War II, the Korean War, or the Vietnam War, or the spouse of a deceased former prisoner of war, shall be eligible for a former prisoner of war license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. The application shall be accompanied by written proof from the United States Department of Veterans Affairs or other appropriate federal agency stating the period of time the person or person's spouse was a prisoner of war. A former prisoner of war license plate shall be printed in red, white, and blue colors. Each plate shall contain the name of the state, the year, the registration number, and the words "Former P.O.W." If a former prisoner of war dies with a vehicle licensed as authorized under this section, the person's surviving spouse may retain the license plate for use on the same vehicle or on another vehicle that complies with the provisions of subsection (4) of this section.

(12) A person who is certified by the Kentucky chapter of the Pearl Harbor Survivors Association as being a survivor of the attack on Pearl Harbor shall be eligible for a Pearl Harbor license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. The Transportation Cabinet shall issue an applicant an appropriately designed plate identifying the vehicle as registered to a Pearl Harbor survivor. The person shall be required to attach to the special military-related license plate application written evidence from the Kentucky chapter of the Pearl Harbor Survivors Association that the person:

(a) Was a member of the United States Armed Forces on December 7, 1941;

(b) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m., Hawaii time, at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three (3) miles;

(c) Was discharged honorably from the United States Armed Forces; and

(d) Is certified by the Kentucky chapter of the Pearl Harbor Survivors Association.

(13) A person who is a member of the Kentucky National Guard, or a retired member, shall be eligible for a National Guard license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. A National Guard license plate shall bear the name "Kentucky National Guard," a registration number, and the logo of the National Guard. Upon termination of membership in the Kentucky National Guard, except for those who remain eligible through retirement, a person shall comply with the provisions of subsection (16) of this section.

(14) A person who is a member of the Civil Air Patrol shall be eligible for a Civil Air Patrol license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Civil Air Patrol license plate shall bear the name "Civil Air Patrol," a registration number, and an appropriate logo to be determined by the Transportation Cabinet. Upon termination of membership in the Civil Air Patrol, a person shall comply with the provisions of subsection (16) of this section.

(15) (a) A person who meets the requirements of subsection (1) of this section shall be eligible for a military license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. The plate shall bear:

1. A seal indicating Army, Navy, Air Force, Marine Corps, or Coast Guard, or, in the case of the Merchant Marines, a seal indicating the branch of service issuing a discharge;
2. A decal indicating whether the person's status is active duty, reserve duty, veteran, retired veteran, or widow; and, if applicable, a decal for auxiliary in the case of the Coast Guard or a decal for the Merchant Marines;
3. A veteran's decal may further indicate a veteran's service in a wartime era; and
4. A registration number.

(b) Upon termination of membership in the active component or reserves of the United States Armed Forces or the United States Coast Guard, a person shall comply with the provisions of subsection (16) of this section.

(c) The Transportation Cabinet, in coordination with the Department of Veterans' Affairs, shall promulgate an administrative regulation under KRS Chapter 13A defining criteria for the issuance of specific decals for veterans' wartime service.

(16) Except for persons changing their status to retired, within thirty (30) days of termination of membership or reserve status in a group eligible for a special military-related license plate, a person issued a military plate under this section ***or a combined personalized/special military license plate issued under Section 2 of this Act,*** shall return the plate to the county clerk of the county of his residence. Upon payment of a three dollar ($3) county clerk fee, the county clerk shall issue the person a regular license plate to replace the[~~ special military-related license~~] plate being surrendered.

(17) Upon the sale, transfer, or termination of a lease of a motor vehicle for which a special military-related license plate has been issued, the owner shall return the military plate and the certificate of registration to the county clerk. The county clerk shall issue a regular license plate and certificate of registration upon payment of a twelve dollar ($12) state fee which includes the fifty cent ($0.50) fee to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee. The twelve dollar ($12) state fee shall be forwarded to the Transportation Cabinet. Upon request and payment of a three dollar ($3) fee, the county clerk shall reissue the special military-related license plate for use on any other vehicle owned by the same person who purchased the special plate for the current licensing period.

(18) The cabinet shall promulgate administrative regulations to set forth the documentation required in order to establish a person's qualifications to receive any license plate issued under this section.

(19) A person seeking a special military-related license plate for a vehicle provided to that person pursuant to an occupation shall conform to the requirements of KRS 186.050(14).

(20) If a special military-related license plate is lost, stolen, mutilated, or deteriorates to the point where the inscriptions or decals are not discernible, the person to whom the plate was issued may obtain a replacement plate free of charge.

Section 2. KRS 186.174 is amended to read as follows:

(1) ***For purposes of this section, "personalized license plate" means a license plate issued with personal letters or numbers significant to the applicant and it also means a license plate that combines personal letters or numbers significant to the applicant with a special military-related license plate issued under Section 1 of this Act.***

(2) Except as provided in this subsection, any owner or lessee of a motor vehicle that is required to be registered under the provisions of KRS 186.050(1) or (3)(a), except taxicabs, airport limousines, and rental motor vehicles, or any owner of a motorcycle required to be registered under the provisions of KRS 186.050(2) may, in addition to registration under KRS 186.050(1) or (3)(a), obtain a personalized license plate by applying for a personalized license plate in the office of the county clerk and upon payment of a twenty-five dollar ($25) fee. A person applying for a personalized license plate shall submit the initial application and twenty-five dollar ($25) fee for a personalized license plate in person to the county clerk, but may submit the annual application to renew the personalized license plate with the twenty-five ($25) fee by mail to the county clerk. Applications and fees for personalized license plates pursuant to this section must be received by the Transportation Cabinet on or before September 1 preceding the year that the plate or renewal is to be issued. A personalized license plate shall be replaced annually unless the applicant chooses to receive a renewal registration decal. A county clerk shall immediately forward the application and the twenty-five dollar ($25) fee for a personalized license plate to the Transportation Cabinet. Personalized plates issued under this section expire December 31 each year. ***The initial fee for a personalized license plate that has been combined with a military license plate under Section 1 of this Act shall be thirty dollars ($30). The thirty dollar ($30) fee shall be divided between the Transportation Cabinet, which shall receive twenty-five dollars ($25), and the Department of Veterans' Affairs, which shall receive five dollars ($5). The county clerk shall forward on a quarterly basis all money collected under this subsection for the Department of Veterans' Affairs, which shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b). A person renewing a combination personalized/special military license plate under this section may donate five dollars ($5) to support the veterans' program trust fund. Money donated to the fund shall be forwarded quarterly by the county clerk to the Department of Veterans' Affairs, which shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b).***

(3)[~~(2)~~] A personalized plate shall not be issued that would conflict with or duplicate the alphabetical-numerical system used for regular license plates or any other license plates issued in the Commonwealth, and shall not contain a combination of more than six (6) letters of the alphabet and Arabic numerals, including spaces. A personalized plate shall not be issued if, in the discretion of the cabinet, it carries a letter or number combinations that carry connotations offensive to good taste and decency. The owner or lessee shall submit an application and twenty-five dollar ($25) fee annually to renew a personalized license plate pursuant to the provisions of subsection *(2)*[~~(1)~~] of this section. Once an applicant obtains a personalized plate, he will have first priority on that plate for each of the following years that he makes timely and proper application.

(4)[~~(3)~~] When registering a vehicle required to be registered under KRS 186.050(1) or (3)(a), the cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue the personalized license plate and receive fourteen dollars fifty cents ($14.50), of which three dollars ($3) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee.

(5)[~~(4)~~] When registering a motorcycle, the cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motorcycle. The clerk shall issue the personalized plate and receive three dollars ($3) and three dollars ($3) for each sidecar attachment.

(6)[~~(5)~~] (a) Upon the sale, transfer, or termination of lease of the motor vehicle bearing the personalized plate, the owner or lessee shall remove it and return it and the certificate of registration to the county clerk. The clerk shall issue a regular license plate and certificate of registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a three dollar ($3) clerk's fee. The vehicle may then be transferred as provided by KRS Chapter 186.

(b) When the personalized plate has been presented to the clerk, he shall reissue it free of charge by the Transportation Cabinet and upon payment of a two dollar ($2) clerk's fee, for use on any other vehicle of the same classification and category owned or leased by the same person purchasing the personalized plate for the current license period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(7)[~~(6)~~] Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(14).

(8)[~~(7)~~] If a personalized plate deteriorates, if he has not transferred a vehicle during the current license period, the applicant may obtain a regular plate free.

(9)[~~(8)~~] The secretary of the Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A necessary to further the purposes of this section.

The Committee Substitute to **SB 107** is as follows:

SB 107, AN ACT relating to license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.041 is amended to read as follows:

(1) The provisions of this section shall govern the issuance of all special military-related license plates. Except as provided in subsection (9) of this section, a person who wants to purchase a special military-related license plate shall apply to the county clerk in the county where the person lives on a form prescribed by the Transportation Cabinet. Each initial and renewal application shall be accompanied by proof that the person is associated with the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Coast Guard, United States Coast Guard Auxiliary, Kentucky National Guard, Merchant Marines with service between December 7, 1941, and August 15, 1945, or Civil Air Patrol in one (1) of the following ways:

(a) An active component member;

(b) A retired member; or

(c) A veteran who received a discharge under honorable conditions, or the veteran's widow and:

1. Performed twenty-four (24) months of active-duty service;
2. Received an early release due to injuries or other medical condition, or at the convenience of the service;
3. Received a hardship discharge;
4. Was separated or retired due to a disability; or
5. Was determined to have a service-connected disability incurred during the enlistment.

(2) Initial registration and renewal registration fees for special military-related license plates shall be charged as provided in this subsection ***and Section 2 of this Act***:

(a) Disabled veterans and recipients of the Congressional Medal of Honor licensed under subsection (5) of this section shall not be charged an initial registration fee and shall not be charged a renewal registration fee. The license plate and certificate of registration shall be issued free of charge*.*[~~;~~]

(b) The initial registration fee shall be a seventeen dollar ($17) state fee that shall be divided under the provisions of subsection (3) of this section and that includes the cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee, and the renewal registration fee shall be a three dollar ($3) county clerk fee for:

1. Former prisoners of war licensed under subsection (11) of this section;
2. Survivors of Pearl Harbor licensed under subsection (12) of this section; and
3. Members of the National Guard licensed under subsection (13) of this section.

(c) The initial registration fee shall be a seventeen dollar ($17) state fee that shall be divided under the provisions of subsection (3) of this section, and the renewal registration fee shall be a twelve dollar ($12) state fee that includes the cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee for:

1. Disabled veterans licensed under subsection (6) of this section;
2. Purple Heart recipients licensed under subsection (10) of this section, except that if a Purple Heart recipient also qualifies as a disabled veteran under subsection (5) of this section, the Purple Heart recipient may receive either a Purple Heart or a disabled veteran's license plate, both initial and renewal, and the certificate of registration free of charge;
3. Members of the Civil Air Patrol licensed under subsection (14) of this section; and
4. Other active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Merchant Marines licensed under subsection (15) of this section.

(d) Recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross licensed under subsection (9) of this section shall be charged an initial registration fee and a renewal registration fee of three dollars ($3.00) that shall be retained by the county clerk. A recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross licensed under subsection (9) of this section shall not be charged a state fee when initially receiving the plate or upon annual renewal of the plate.

(e) The initial and renewal registration fee for a military license plate that has been combined with a personalized license plate under the provisions of this section shall be as provided under Section 2 of this Act.

(3) The initial state fee collected under subsections (2)(b) and (2)(c) of this section shall be divided between the Transportation Cabinet and the Department of Veterans' Affairs. The Transportation Cabinet shall receive twelve dollars ($12) of the initial state fee and the Department of Veterans' Affairs shall receive five dollars ($5) of the initial state fee. The county clerk shall forward money collected under subsections (2)(b) and (2)(c) of this section to the ***Transportation Cabinet who shall forward the money to the*** Department of Veterans' Affairs on a quarterly basis and the department shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b). A person renewing a special military license plate issued under this section may donate five dollars ($5) to support the veteran's program trust fund. Money donated under this subsection shall be paid to the county clerk who shall forward the money ***to the Transportation Cabinet who shall forward the money*** on a quarterly basis to the Department of Veterans' Affairs and the department shall deposit the money into the veteran's program trust fund established by KRS 40.460(2)(b).

(4) A special military-related license plate may be issued for use on a passenger car registered under KRS 186.050(1) or for a commercial vehicle registered under KRS 186.050(3)(a) that has a gross laden weight of six thousand (6,000) pounds or less. Except as provided in subsection (7) of this section ***and Section 2 of this Act***, a license plate issued under this section shall have the renewal registration decal issued annually during the applicant's birth month ***and***[~~. License plates issued under this section~~] shall be a five (5) year license plate. The member, retired member, veteran, or reservist may purchase two (2) special military-related license plates annually for vehicles they own or lease. ***A license plate issued under this section may be combined with a personalized license plate under the provisions of Section 2 of this Act.***

(5) A recipient of the Congressional Medal of Honor, a recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross, or a disabled veteran who has been or shall be given financial assistance toward the purchase or lease of a motor vehicle by the United States Department of Veterans Affairs under the provisions of 38 U.S.C. sec. 1901, or any other public law that may be passed by the Congress of the United States shall initially and annually be issued a certificate of registration and a special military-related license plate free of charge.

(6) A veteran who has been declared to be at least seventy percent (70%) service-connected disabled by the United States Department of Veterans Affairs, or who is receiving total service-connected disability rating for compensation on individual unemployability, and who has not received financial assistance from the United States Department of Veterans Affairs toward the purchase or lease of a motor vehicle shall be eligible for a disabled veterans license plate upon payment of the initial registration fee required in subsection (2)(c) of this section.

(7) A disabled veterans license plate shall be printed in red, white, and blue colors. Half of the license plate shall be in one (1) color, the other half a second color, and the figures and lettering in the third color. Each plate shall contain the international symbol of access adopted by Rehabilitation International in 1969, the name of the state, the year, the registration number, and the words "Disabled Vet." A disabled veterans license plate shall have the renewal registration decal issued annually on July 31.

(8) A recipient of the Congressional Medal of Honor shall be eligible for a Congressional Medal of Honor license plate that shall be printed in blue and white colors and shall follow the color scheme for all figures and letters as prescribed for

passenger cars. Each plate shall contain the name or an abbreviation of the state and the words "Medal of Honor" and a number uniquely identifying each recipient, in lieu of registration numbers.

(9) A recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross shall be eligible for a Service Cross license plate upon submission of an application to the Kentucky Department of Veterans' Affairs. The recipient shall be required to include with the initial application for a Service Cross license plate a copy of the general order that authorized the award and the recipient's Department of Defense form number 214. The Department of Veterans' Affairs shall verify the documentation submitted with the application for a Service Cross license plate, and if the individual applying for the plate is confirmed to be a recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross, the Department of Veterans' Affairs shall submit the applicant's name to the Transportation Cabinet's Division of Motor Vehicle Licensing not later than September 1 preceding the year that the Service Cross license plate is to be initially issued or renewed. When the Service Cross license plate is ready, the plate shall be sent to the county clerk in the county of the applicant's residence. The Transportation Cabinet's Division of Motor Vehicle Licensing shall inform each applicant in writing that the Service Cross license plate is ready and may be picked up at the county clerk's office. Each Service Cross license plate shall contain the name or an abbreviation for the state and an alphabetic or numeric designation uniquely identifying each recipient of a Service Cross license plate in lieu of registration numbers. The Transportation Cabinet shall have the authority to select three (3) designs and the appropriate color scheme for each design of the Service Cross license plate. In addition to the requirements of this subsection, the Transportation Cabinet shall have the authority to include other information on the Service Cross license plate. The Transportation Cabinet shall prescribe the type of application form required by this subsection and shall supply the Department of Veterans' Affairs with the application form required by this subsection.

(10) A recipient of a Purple Heart medal shall be eligible for a Purple Heart license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Purple Heart license plate shall bear the name "Purple Heart," a registration number, and an appropriate logo to be determined by the Transportation Cabinet.

(11) A person who is a former prisoner of the enemy during World War I, World War II, the Korean War, or the Vietnam War, or the spouse of a deceased former prisoner of war, shall be eligible for a former prisoner of war license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. The application shall be accompanied by written proof from the United States Department of Veterans Affairs or other appropriate federal agency stating the period of time the person or person's spouse was a prisoner of war. A former prisoner of war license plate shall be printed in red, white, and blue colors. Each plate shall contain the name of the state, the year, the registration number, and the words "Former P.O.W." If a former prisoner of war dies with a vehicle licensed as authorized under this section, the person's surviving spouse may retain the license plate for use on the same vehicle or on another vehicle that complies with the provisions of subsection (4) of this section.

(12) A person who is certified by the Kentucky chapter of the Pearl Harbor Survivors Association as being a survivor of the attack on Pearl Harbor shall be eligible for a Pearl Harbor license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. The Transportation Cabinet shall issue an applicant an appropriately designed plate identifying the vehicle as registered to a Pearl Harbor survivor. The person shall be required to attach to the special military-related license plate application written evidence from the Kentucky chapter of the Pearl Harbor Survivors Association that the person:

(a) Was a member of the United States Armed Forces on December 7, 1941;

(b) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m., Hawaii time, at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three (3) miles;

(c) Was discharged honorably from the United States Armed Forces; and

(d) Is certified by the Kentucky chapter of the Pearl Harbor Survivors Association.

(13) A person who is a member of the Kentucky National Guard, or a retired member, shall be eligible for a National Guard license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. A National Guard license plate shall bear the name "Kentucky National Guard," a registration number, and the logo of the National Guard. Upon termination of membership in the Kentucky National Guard, except for those who remain eligible through retirement, a person shall comply with the provisions of subsection (16) of this section.

(14) A person who is a member of the Civil Air Patrol shall be eligible for a Civil Air Patrol license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Civil Air Patrol license plate shall bear the name "Civil Air Patrol," a registration number, and an appropriate logo to be determined by the Transportation Cabinet. Upon termination of membership in the Civil Air Patrol, a person shall comply with the provisions of subsection (16) of this section.

(15) (a) A person who meets the requirements of subsection (1) of this section shall be eligible for a military license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. The plate shall bear:

1. A seal indicating Army, Navy, Air Force, Marine Corps, or Coast Guard, or, in the case of the Merchant Marines, a seal indicating the branch of service issuing a discharge;

2. A decal indicating whether the person's status is active duty, reserve duty, veteran, retired veteran, or

widow; and, if applicable, a decal for auxiliary in the case of the Coast Guard or a decal for the Merchant Marines;

3. A veteran's decal may further indicate a veteran's service in a wartime era; and

4. A registration number.

(b) Upon termination of membership in the active component or reserves of the United States Armed Forces or the United States Coast Guard, a person shall comply with the provisions of subsection (16) of this section.

(c) The Transportation Cabinet, in coordination with the Department of Veterans' Affairs, shall promulgate an administrative regulation under KRS Chapter 13A defining criteria for the issuance of specific decals for veterans' wartime service.

(16) Except for persons changing their status to retired, within thirty (30) days of termination of membership or reserve status in a group eligible for a special military-related license plate, a person issued a military plate under this section ***or a combined personalized/special military license plate issued under Section 2 of this Act,*** shall return the plate to the county clerk of the county of his residence. Upon payment of a three dollar ($3) county clerk fee, the county clerk shall issue the person a regular license plate to replace the~~[special military-related license]~~ plate being surrendered.

(17) Upon the sale, transfer, or termination of a lease of a motor vehicle for which a special military-related license plate has been issued, the owner shall return the military plate and the certificate of registration to the county clerk. The county clerk shall issue a regular license plate and certificate of registration upon payment of a twelve dollar ($12) state fee which includes the fifty cent ($0.50) fee to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee. The twelve dollar ($12) state fee shall be forwarded to the Transportation Cabinet. Upon request and payment of a three dollar ($3) fee, the county clerk shall reissue the special military-related license plate for use on any other vehicle owned by the same person who purchased the special plate for the current licensing period.

(18) The cabinet shall promulgate administrative regulations to set forth the documentation required in order to establish a person's qualifications to receive any license plate issued under this section.

(19) A person seeking a special military-related license plate for a vehicle provided to that person pursuant to an occupation shall conform to the requirements of KRS 186.050(14).

(20) If a special military-related license plate is lost, stolen, mutilated, or deteriorates to the point where the inscriptions or decals are not discernible, the person to whom the plate was issued may obtain a replacement plate free of charge.

Section 2. KRS 186.174 is amended to read as follows:

(1) ***For purposes of this section, "personalized license plate" means a license plate issued with personal letters or numbers significant to the applicant and it also means a license plate that combines personal letters or numbers significant to the applicant with a special military-related license plate issued under Section 1 of this Act.***

(2) Except as provided in this subsection, any owner or lessee of a motor vehicle that is required to be registered under the provisions of KRS 186.050(1) or (3)(a), except taxicabs, airport limousines, and rental motor vehicles, or any owner of a motorcycle required to be registered under the provisions of KRS 186.050(2) may, in addition to registration under KRS 186.050(1) or (3)(a), obtain a personalized license plate by applying for a personalized license plate in the office of the county clerk and upon payment of a twenty-five dollar ($25) fee. A person applying for a personalized license plate shall submit the initial application and twenty-five dollar ($25) fee for a personalized license plate in person to the county clerk, but may submit the annual application to renew the personalized license plate with the twenty-five ($25) fee by mail to the county clerk. Applications and fees for personalized license plates pursuant to this section must be received by the Transportation Cabinet on or before September 1 preceding the year that the plate or renewal is to be issued. A personalized license plate shall be replaced annually unless the applicant chooses to receive a renewal registration decal. A county clerk shall immediately forward the application and the twenty-five dollar ($25) fee for a personalized license plate to the Transportation Cabinet. Personalized plates issued under this section expire December 31 each year. ***The initial fee for a personalized license plate that has been combined with a military license plate under Section 1 of this Act shall be thirty dollars ($30). The thirty dollar ($30) fee shall be divided between the Transportation Cabinet, which shall receive twenty-five dollars ($25), and the Department of Veterans' Affairs, which shall receive five dollars ($5). The county clerk shall forward the money collected under this subsection for a personalized license plate that has been combined with a military license plate to the Transportation Cabinet who shall forward on a quarterly basis the money to the Department of Veterans' Affairs, which shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b). A person renewing a combination personalized/special military license plate under this section may donate five dollars ($5) to support the veterans' program trust fund. Money donated to the fund shall be forwarded by the county clerk to the Transportation Cabinet who shall forward the money on a quarterly basis to the Department of Veterans' Affairs, which shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b).***

(3)~~[(2)]~~ A personalized plate shall not be issued that would conflict with or duplicate the alphabetical-numerical system used for regular license plates or any other license plates issued in the Commonwealth, and shall not contain a combination of more than six (6) letters of the alphabet and Arabic numerals, including spaces. A personalized plate shall not be issued if, in the discretion of the cabinet, it carries a letter or number combinations that carry connotations offensive to good taste and decency. The owner or lessee shall submit an application and twenty-five dollar ($25) fee annually to renew a personalized license plate pursuant to the provisions of subsection *(2)*[~~(1)~~] of this section. Once an applicant obtains a personalized plate, he will have first priority on that plate for each of the following years that he makes timely and proper application.

(4)[~~(3)~~] When registering a vehicle required to be registered under KRS 186.050(1) or (3)(a), the cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue the personalized license plate and receive fourteen dollars fifty cents ($14.50), of which three dollars ($3) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee.

(5)[~~(4)~~] When registering a motorcycle, the cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motorcycle. The clerk shall issue the personalized plate and receive three dollars ($3) and three dollars ($3) for each sidecar attachment.

(6)[~~(5)~~] (a) Upon the sale, transfer, or termination of lease of the motor vehicle bearing the personalized plate, the owner or lessee shall remove it and return it and the certificate of registration to the county clerk. The clerk shall issue a regular license plate and certificate of registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a three dollar ($3) clerk's fee. The vehicle may then be transferred as provided by KRS Chapter 186.

(b) When the personalized plate has been presented to the clerk, he shall reissue it free of charge by the Transportation Cabinet and upon payment of a two dollar ($2) clerk's fee, for use on any other vehicle of the same classification and category owned or leased by the same person purchasing the personalized plate for the current license period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(7)[~~(6)~~] Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(14).

(8)[~~(7)~~] If a personalized plate deteriorates, if he has not transferred a vehicle during the current license period, the applicant may obtain a regular plate free.

(9)[~~(8)~~] The secretary of the Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A necessary to further the purposes of this section.

SJR 16, A JOINT RESOLUTION designating the "Hays Bridge" in Breathitt County.

WHEREAS, Hays, Kentucky was the first stop on the now-defunct Kentucky and Ohio Railroad heading north out of Jackson, Kentucky; and

WHEREAS, the Kentucky and Ohio Railroad ceased operation in 1933 and the track was removed in 1934; and

WHEREAS, members of the Hays family still live in the Jackson, Kentucky area to this day; and

WHEREAS, it is fitting and proper that the General Assembly take steps to preserve and pass on some sense of the history of this community;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name the bridge currently under construction to connect Kentucky Route 15 and Kentucky Route 3193, the "Hays Bridge."

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs on the road specified in Section 1 of this Act that read "Hays Bridge."

The Committee Amendment No. 1 to **SJR 16** is as follows:

On page 1, line 2, after the word "Hays" by inserting the word "Depot"; and

On page 1, line 5, after the word "Hays" by inserting the word "Depot".

The Committee Amendment No. 2 Title to **SJR 16** is as follows:

On page 1, by amending the title to read as follows:

"A JOINT RESOLUTION designating the "Hays Depot Bridge" in Breathitt County.".

SJR 23, A JOINT RESOLUTION naming the connector road at Virgie, Kentucky, between Kentucky Route 610 and United States Route 23 in honor of former State Representative N. Clayton Little.

WHEREAS, born in Hartley, Pike County, Kentucky, on June 9, 1933, N. Clayton Little has been a longtime resident of Virgie in Pike County; and

WHEREAS, after receiving a Bachelor of Science degree from Pikeville College, N. Clayton Little traveled to Eastern Kentucky University to complete his Master of Arts degree, and then on to Morehead State University where after completing another thirty hours' course work he received a Rank I Certification in Education; and

WHEREAS, N. Clayton Little is a successful businessman in Pike County in addition to being a respected educator; and

WHEREAS, throughout his career N. Clayton Little has been an active member of many civic and professional organizations including the Jaycees; the National and Kentucky Education Associations; the Pike County Teachers Association; the National and Kentucky Directors of Public Personnel Association; and the National and Kentucky Social Workers Organization; and

WHEREAS, from 1974 to 1994, the citizens of the Ninety-Third House of Representatives District selected N. Clayton Little to champion their causes in Frankfort; and

WHEREAS, during his two decades of selfless service in the Kentucky General Assembly, in addition to serving on numerous special legislative committees, N. Clayton Little served on the following standing committees: Education, Highways and Traffic Safety, Judiciary-Courts, Labor and Industry, and Transportation; and

WHEREAS, N. Clayton Little was the distinguished Chair of the House Transportation Committee from 1980 until his retirement in 1994; and

WHEREAS, it is only fitting to honor Pike County's native son who faithfully represented the citizens of the Ninety-Third House of Representatives District;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the General Assembly, both individually and collectively, hereby proclaim N. Clayton Little to be an outstanding statesman and exemplary representative of the Commonwealth.

Section 2. In honor of his many years of service as the Gentleman from Pike 93, the General Assembly hereby directs the Transportation Cabinet to name the connector road at Virgie, Kentucky, between Kentucky Route 610 and United States Route 23 "The N. Clayton Little Highway."

Section 3. The Transportation Cabinet shall, within thirty (30) days of the effective date of this Resolution, erect signs on the connector road at Virgie, Kentucky, between Kentucky Route 610 and United States Route 23 that read "The N. Clayton Little Highway."

SJR 39, A JOINT RESOLUTION naming "The Sergeant Beverly 'Verly' Miller Memorial Bridge" in Greenup County.

We pause in silent reverence to pay homage to Beverly "Verly" Miller, our native son felled in the heat of battle fighting for his beloved country.

WHEREAS, Beverly "Verly" Miller was born on October 7, 1921, the son of Lindsey and Vada Potter Miller; and

WHEREAS, Beverly "Verly" Miller was raised on his family's farm located on Kentucky Route 693 at the intersection with White Oak Road in Russell, Kentucky; and

WHEREAS, a true patriot, Beverly "Verly" Miller was a sergeant in the 329th Regiment of the 83rd Infantry Division during World War II; and

WHEREAS, upon landing off Omaha Beach on the seventeenth day after D Day, the 83rd relieved the 101st Airborne Division at Carentan where the Division was assigned to the U.S. First Army; and

WHEREAS, the Carentan sector was heavily defended by elite Nazi SS, Panzer, and paratroops; however the 83rd Infantry Division was known throughout the European Theater of Operations for their courage, tenacity, and fortitude; and

WHEREAS, Sergeant Beverly "Verly" Miller and his fellow troops valiantly broke through German defensives that the enemy had been fortifying in Carentan for four years; and

WHEREAS, Sergeant Beverly "Verly" Miller and the 83rd was assigned to General George Patton's Third Army following Carentan to participate in the Brittany Campaign; and

WHEREAS, Sergeant Beverly "Verly" Miller and the 83rd Infantry Division protected the right flank of Patton's Army as it moved across France to the north bank of the Loire River, a distance of 200 miles; and

WHEREAS, even though he was only twenty-three years old, Sergeant Beverly "Verly" Miller's bravery carried him through fierce battles in Luxembourg, as well as the Hurtgen Forest west of Duren, Germany; and

WHEREAS, it was during heavy fighting in attacks on the town of Gurzenich and Birgel that Sergeant Beverly "Verly" Miller made the ultimate sacrifice for his family and homeland; and

WHEREAS, Sergeant Beverly "Verly" Miller was killed on December 15, 1944, one day before the Battle of the Bulge began in the Ardennes; and

WHEREAS, Sergeant Beverly "Verly" Miller's unselfish actions resulted in his being awarded two Purple Hearts before his death on that distant battlefield so long ago;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the General Assembly, both individually and collectively, are humbled to posthumously honor Sergeant Beverly "Verly" Miller for his gallantry and his sacrifice so that freedom would forever reign over the United States of America.

Section 2. The General Assembly proclaims Sergeant Beverly "Verly" Miller to be an outstanding citizen, a native son whose life should forever serve as a role model for all Kentuckians.

Section 3. The Transportation Cabinet is directed to name bridge number B00073 (drawing number 22991) located at milepoint 4.602 over White Oak Creek on Kentucky Route 693 in Greenup County "The Beverly 'Verly' Miller Memorial Bridge."

Section 4. The Transportation Cabinet is directed to erect signs within thirty (30) days of the effective date of this Resolution on the approaches to bridge number B00073 (drawing number 22991) located at milepoint 4.602 over White Oak Creek on Kentucky Route 693 in Greenup County that read "The Beverly 'Verly' Miller Memorial Bridge."

Section 5. The staff of the Legislative Research Commission shall, upon its passage, transmit a copy of this Resolution to the sisters of Sergeant Beverly "Verly" Miller: Ms. Imogene Kimberlain, 1019 Chippewa Road, Ashland, KY 41102; Ms. Wanda Caudill, 316 Seaton Drive, Russell, KY 41169; and Ms. Darlene Hayes, Route 1, Box 206, Flatwoods, KY 41139; as well as to his nephew Mr. Donald E. Harris, 936 Newman Drive, Worthington, KY 41183.

The Committee on Economic Development reported **HCR 147,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 147, A CONCURRENT RESOLUTION creating an Interim Subcommittee on Small Business Regulation.

WHEREAS, small business is the backbone of our state's economy; and

WHEREAS, small businesses in the Commonwealth are often confronted with burdensome administrative regulations that impact their economic growth and vitality; and

WHEREAS, there is an ongoing need for state agencies to consult with the small business community when promulgating administrative regulations to better assess their impact and to consider alternatives that will ease the impact of administrative regulations on small business; and

WHEREAS, the issues facing small business within the Commonwealth continue to be of concern to the General Assembly;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. There is hereby created for the 2002-2003 interim a Subcommittee on Small Business Regulation of the Interim Joint Committee on Economic Development and Tourism. The subcommittee shall provide a forum in which small business concerns may be addressed in order to assist government agencies in considering the interests of small businesses as they create policies and establish administrative regulations.

Section 2. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Agriculture and Small Business reported **HCR 159,** with Committee Substitute and Committee Amendment attached thereto, **SB 86** and **SCR 47,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 159, A CONCURRENT RESOLUTION directing the Legislative Research Commission to create a task force to study the potential development of Kentucky's grape and berry industry.

WHEREAS, grapes and various berries are native to Kentucky, and have been cultivated in the state for over a century; and

WHEREAS, existing Kentucky producers can no longer meet the rapidly increasing demand for grapes and berries; and

WHEREAS, displaced tobacco farmers throughout Kentucky depend on alternative crops for survival of their farms; and

WHEREAS, the grape and berry industry presents an economically viable approach to agriculture management for Kentucky farmers; and

WHEREAS, agricultural sustainability is in the best interest of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission shall establish a task force to study the presence and potential development of the grape and berry industry in Kentucky. The task force shall recommend strategies for the following industry concerns:

(1) Crop growth and management;
(2) Commercial production, processing, and packaging; and
(3) Marketing infrastructure development.

Section 2. The task force shall consist of seven members, to be approved by the Legislative Research Commission, to include:

(1) Commissioner of the Department of Agriculture, or a designee;
(2) Executive director of the Agriculture Development Board, or a designee;
(3) Chair of the University of Kentucky Horticulture Department, or a designee;
(4) President of the Kentucky Farm Bureau, or a designee;
(5) Managing director of the Commodity Growers Cooperative, or a designee; and
(6) Two members of the General Assembly, who shall serve as co-chairs, one member appointed by the President of the Senate, and one member appointed by the Speaker of the House of Representatives.

Section 3. The task force shall report its findings and recommendations to the Legislative Research Commission no later than September 1, 2002.

Section 4. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Substitute to **HCR 159,** is as follows:

HCR 159, A CONCURRENT RESOLUTION directing the Legislative Research Commission to create a task force to study the potential development of Kentucky's grape and berry industry.

WHEREAS, grapes and various berries are native to Kentucky, and have been cultivated in the state for over a century; and

WHEREAS, existing Kentucky producers can no longer meet the rapidly increasing demand for grapes and berries; and

WHEREAS, displaced tobacco farmers throughout Kentucky depend on alternative crops for survival of their farms; and

WHEREAS, the grape and berry industry presents an economically viable approach to agriculture management for Kentucky farmers; and

WHEREAS, agricultural sustainability is in the best interest of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission shall direct the Interim Joint Committee on Agriculture and Natural Resources to study the presence and potential development of the grape and berry industry in Kentucky. The committee shall recommend strategies for the following industry concerns:

(1) Crop growth and management;
(2) Commercial production, processing, and packaging; and
(3) Marketing infrastructure development.

Section 2. The committee shall gather information and receive testimony relating to the grape and berry industry from the:

(1) Commissioner of the Department of Agriculture, or a designee;
(2) Executive director of the Governor's Office of Agricultural Development, or a designee; and
(3) Chair of the University of Kentucky Horticulture Department, or a designee;
(4) President of the Kentucky Farm Bureau, or a designee; and
(5) Managing director of the Commodity Growers Cooperative, or a designee.

Section 3. The committee shall report its findings and recommendations to the Legislative Research Commission no later than November 1, 2002.

Section 4. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Amendment No. 1 Title to **HCR 159,** is as follows:

Amend the title to read as follows: "A CONCURRENT RESOLUTION directing the Interim Joint Committee on Agriculture and Natural Resources to study the potential development of Kentucky's grape and berry industry.".

SB 86, AN ACT relating to tobacco research.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Tobacco Research and Development Center is hereby created.

(2) The Kentucky Tobacco Research and Development Center is to be overseen by the Kentucky Tobacco Research Board and shall undertake not only research into tobacco but also other research having related or complementary interests, including but not limited to commercialization potential of tobacco and plant research, plant natural products research and research into development of new crops based on tobacco and other plants.

(3) The Kentucky Tobacco Research and Development Center may share its physical facility with other research operations having these and similar interests, subject to approval of the Kentucky Tobacco Research Board.

(4) State funds appropriated by the General Assembly under KRS 248.510 to 248.570 shall be used solely for research conducted by, or operations of, the Kentucky Tobacco Research and Development Center and the Kentucky Tobacco Research Board.

Section 2. KRS 248.510 is amended to read as follows:

(1) The Kentucky Tobacco Research Board is hereby created. The board shall be composed of ***thirteen (13) voting***[~~fourteen (14)~~] members ***and one (1) nonvoting member*** as follows:

  (a) Ten (10) permanent members who shall be the following officeholders or shall be designated by the following organizations: the Kentucky Farm Bureau Federation; the Kentucky ***Innovations Commission***[~~division of the National Farmers Organization~~]; the commissioner of the Kentucky Department of Agriculture; the dean of the University of Kentucky College of Agriculture; the Burley Growers Cooperative Association; the ***Council for Burley*** Tobacco [~~Warehouse Association~~]; the Dark Fired Tobacco Association; the Kentucky ***Science and Technology Corporation***[~~Medical Association~~]; the chairman of the Senate Committee on Agriculture and Natural Resources; and the chairman of the House Committee on Agricultural and ***Small Business***[~~Natural Resources~~]. Each officeholder and organization shall designate an alternate who is authorized to serve when the member cannot be present at a meeting.

  (b) Three (3) members at large***, at least one (1) of whom is a tobacco farmer in Kentucky and at least one (1) of whom has research and development experience in the public or private sector,*** who shall be appointed by the Governor with the advice and consent of the Legislative Research Commission.

  (c) One (1) ***nonvoting*** member ***from the University of Kentucky, who shall be the University of Kentucky Vice President for Research, or the Vice President's designee. The nonvoting member of the board may be counted in determining a quorum, but the nonvoting member shall not vote on matters before the board***[~~who shall be selected by the ten (10) permanent members of the board, and who shall be the president or member of the board of directors of a tobacco company incorporated to do business in Kentucky~~].

(2) No member of the board shall receive any salary, fee or other remuneration for his services as a member of the board but each member shall be reimbursed for his ordinary travel expenses, including meals and lodging, incurred in the performance of his duties incident to implementation of the provisions of KRS 248.510 to 248.570.

(3) The term of the ten (10) members designated in paragraph (a) of subsection (1) of this section shall not change but they shall be permanent members in terms of the organizations and offices named. At-large members and the tobacco industry member shall serve two (2) year terms.

(4) The board shall elect, by a majority vote of the ***thirteen (13) voting***[~~fourteen (14)~~] members, a chairman ***and a vice chair. The chairman***[~~who~~] shall be the presiding officer of the board, shall preside at all meetings, and coordinate the functions and activities of the board. The chairman shall be elected or reelected annually and shall be a permanent member or an at-large member of the board. ***The vice chair shall conduct meetings in the absence of the chairman.*** The board shall have such other organization as deemed necessary and approved by the board.

(5) Meetings of the board shall be held at least quarterly but may be held more frequently as deemed necessary subject to call

by the chairman or by request of a majority of the board members. Board meetings shall concern, among other things, policy matters relating to[~~ tobacco~~] research projects and programs, research progress reports, authorization of projects and financial plans, and such other matters as necessary to carry out the intent of KRS 248.510 to 248.570.

(6) ***Seven (7)***[~~Eight (8)~~] members of the board shall constitute a quorum for doing business. Each member shall have one (1) vote and a majority vote of the members present shall control on all questions.

Section 3. KRS 248.520 is amended to read as follows:

The Kentucky Tobacco Research Board shall:

(1) Formulate policies and procedures as necessary to carry out the provisions of KRS 248.510 to 248.570.

(2) Promulgate rules and regulations as necessary to carry out the provisions of KRS 248.510 to 248.570 and to ensure proper expenditure of state funds appropriated for the purposes of KRS 248.510 to 248.570.

(3) Review and authorize[~~ tobacco~~] research projects and programs to be undertaken and financed under the provisions of KRS 248.510 to 248.570.

(a) The facilities designated the Tobacco and Health Research Institute before the effective date of this Act shall be retained and operated by the University of Kentucky exclusively for the program and activities described in Section 1 of this Act.

(b) In addition to the research and development funded by authority of the Kentucky Tobacco Research Board, the board is authorized to allow other research operations having related or complementary interests to share this physical facility with the Kentucky Tobacco Research and Development Center, subject to approval of the board[~~When, after diligent search, it is determined by the board that adequate facilities for a particular research project are not available at the University of Kentucky or any other suitable location, the board may use funds appropriated to it to construct research facilities for the project~~].

(4) Review and approve all progress and final research reports on projects authorized under the provisions of KRS 248.510 to 248.570.

(5) Ensure that state funds, appropriated by KRS 248.510 to 248.570 or any other act for tobacco research, are not diverted to any other use and that all authorized research projects are directed toward***:***

(a) Preserving and strengthening tobacco agriculture in Kentucky;

(b) Facilitating the progress of commercial endeavors in crop agriculture which have potential to provide entirely new market opportunities for tobacco growers; and

(c) Applying, when appropriate, previously authorized research initially conducted with tobacco to other plants which might be grown commercially in Kentucky, thus obtaining the fullest possible practical benefit from the research progress[~~improvements in the tobacco industry, and more specifically toward proving or disproving questions of health hazards to tobacco users and toward preserving and strengthening the tobacco industry in Kentucky~~].

(6) Provide the Governor, the General Assembly, and the Legislative Research Commission an annual report by January 30 of each year showing the status of funds appropriated under KRS 248.510 to 248.570 for tobacco research and the progress of the board in terms of the results of its tobacco research efforts.

(7) Advise the General Assembly by January 30 during each even-numbered-year regular session of the need for continuation of the Kentucky Tobacco Research Board and the tax levied by Chapter 255 of the Acts of 1970 for the purpose of financing tobacco ***and related new crops*** research programs as provided by KRS 248.510 to 248.570.

(8) Approve and release public statements relating to the progress and results of [~~tobacco~~]research projects.

Section 4. KRS 248.540 is amended to read as follows:

(1) The tax revenues received from the additional one-half cent ($0.005) tax levied by Chapter 255 of the Acts of 1970 shall be credited to a tobacco research-trust fund which is hereby created.

(2) Federal funds which may be made available to supplement or match state funds for [~~tobacco~~]research programs provided for by KRS 248.510 to 248.570 shall be credited to the trust fund created in subsection (1) of this section.

(3) Funds deposited to the credit of the tobacco research-trust fund shall be used to finance the[~~ tobacco~~] research programs authorized under the provisions of KRS 248.510 to 248.570 and for no other purpose.

(4) Funds unexpended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year or biennium, provided, however, that such surplus shall be included in the budget considered and approved by the board for the ensuing period.

Section 5. KRS 248.550 is amended to read as follows:

(1) The amount of revenues collected and/or credited to the tobacco research-trust fund shall be appropriated each year to the ***Kentucky Tobacco Research and Development Center***[~~University of Kentucky Tobacco and Health Research Institute~~] to finance[~~ tobacco~~] research projects and programs as provided in KRS 248.510 to 248.570 and shall be expended by the institute only on those projects and programs authorized by the Kentucky Tobacco Research Board.

(2) The Office of State Budget Director shall supply revenue estimates of the amount of revenue anticipated to be collected during each fiscal year by the added one-half cent ($0.005) tax on cigarettes which estimate, along with any federal funds available, shall be the basis for preparing tobacco research programs and budget requests for each fiscal year.

Section 6. KRS 248.560 is amended to read as follows:

(1) The ***Kentucky Tobacco Research and Development Center***~~[University of Kentucky Tobacco and Health Research Institute]~~ shall prepare a proposed~~[tobacco]~~ research program and budget request for each fiscal year and shall present such documents to the Kentucky Tobacco Research Board for consideration and approval. The budget shall be based on revenue estimates as provided in KRS 248.550.

(2) The budget shall provide for payment of expenses incurred by Kentucky Tobacco Research Board members as provided in subsection (2) of KRS 248.510~~[and for the technical adviser as provided by KRS 248.530]~~, and for~~[such]~~ other administrative costs of the board.

(3) The Kentucky Tobacco Research Board shall consider the university recommendations and shall approve a budget for each fiscal year which shall be the basis for expending funds appropriated by KRS 248.510 to 248.570. The budget and proposed research program shall be considered by the board in terms of the intent of KRS 248.510 to 248.570.

(4) The university is authorized to proceed to execute the budget approved by the Kentucky Tobacco Research Board and may expend funds accordingly, and, the Finance and Administration Cabinet is hereby authorized to issue warrants for this purpose upon request by the university.

(5) Copies of the approved budget shall be filed by the board with the Legislative Research Commission and the Finance and Administration Cabinet.

Section 7. KRS 248.610 is amended to read as follows:

(1) No person shall use, and no person shall purchase or otherwise acquire for intended use, any tobacco stalks in any manner that could result in human consumption by smoking or other use of tobacco stalks. This section does not prohibit the use of tobacco stalks in~~[experimental research projects designed for finding]~~ new and innovative uses for tobacco.

(2) The Department of Agriculture shall enforce this section, and shall initiate prosecution whenever and wherever it has reasonable grounds to believe this section is being violated.

Section 8. The Kentucky Tobacco Research and Development Center shall assume all of the duties of the Tobacco and Health Research Institute and occupy the building which formerly housed the Tobacco and Health Research Institute.

Section 9. The following KRS section is repealed:

248.530 Technical adviser.

SCR 47, A CONCURRENT RESOLUTION requesting reauthorization of the Tobacco Task Force.

WHEREAS, tobacco production is at the heart of Kentucky's agricultural economy; and

WHEREAS, loss of tobacco production or the tobacco program would have a devastating effect on Kentucky and its tobacco farmers; and

WHEREAS, the loss of tobacco production would cause failure of many farms and businesses, decreases in land values, the default of loans, and the loss of state and local revenues; and

WHEREAS, shifts in tobacco production from the auction marketing system to contract marketing system, and cuts in tobacco quota continue to change the traditional tobacco program and methods of tobacco production in Kentucky; and

WHEREAS, the Tobacco Task Force was created by the Legislative Research Commission in 1984 to address problems that threaten the tobacco industry and the tobacco price support program; and

WHEREAS, the Task Force has studied contracting in tobacco and many other problems that threaten Kentucky's tobacco economy and been instrumental in helping to resolve these problems; and

WHEREAS, the Kentucky's tobacco industry and tobacco farmers remain in jeopardy because of threats to the tobacco program, increased use of imported tobacco, labor shortages, marginal prices, cuts in tobacco quota, a shift from an auction marketing system to a contract marketing system, possible increases in excise taxes, and other problems;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That the Kentucky Tobacco Task Force be reauthorized through December 31, 2003, to help resolve the problems facing the tobacco industry and the tobacco program.

Section 2. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Calendar

HB 587, HB 671, HCR 125, SB 116, HB 496, HB 126, HB 502, HB 529, HB 553, HB 626, HB 637, HB 684, SB 74, SB 131, HB 368, HB 510, HB 649, HB 698, HB 668, HB 676, HB 145, HB 228, HB 541, HB 571, and **HB 610** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report of Committees (Continued)

Representative Stumbo moved to suspend the rules to allow for Rules Committee Report. Agreed.

The Committee on Rules reported that **HB 395** and **HCR 162** have been posted for passage in the Orders of the Day for March 1, 2002.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 368, HB 541,** and **HB 637**

Judiciary: **HB 676**

Orders of the Day

HB 481, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative C. Belcher moved the adoption of the Committee Substitute to **HB 481**. Agreed.

Representative C. Belcher moved the adoption of Floor Amendment No. 7 to the Committee Substitute to **HB 481**. Agreed.

Representative C. Belcher moved that **HB 481**, by way of Committee Substitute, as amended, be passed.

Representative Damron moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 481**.

On the roll call the vote was: **Yeas 76, Nays 17**. (See February 28, 2002, roll call on **HB 481** - Appendix.)

Floor Amendment No. 2 to the Committee Substitute **HB 481** was passed.

Representative Damron moved the adoption of Floor Amendment No. 6 to the Committee Substitute to **HB 481**.

Representative C. Belcher inquired whether Floor Amendment No. 6 was germane.

The Speaker ruled that Floor Amendment No. 6 to the Committee Substitute to **HB 481** was not germane.

Representative C. Belcher moved that **HB 481**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 5**. (See February 28, 2002, roll call on **HB 481** - Appendix.)

HB 481, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative C. Belcher moved that the vote by which **HB 481**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 325, HB 386, HCR 70,** and **HCR 71** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:10 p.m.)

Orders of the Day (Continued)

HJR 25 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Treesh moved that **HJR 25** be adopted.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 28, 2002, roll call on **HJR 25** - Appendix.)

HJR 25 was adopted.

Representative Treesh moved that the vote by which **HJR 25** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 129, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved the adoption of the Committee Substitute to **HB 129**. Agreed.

Representative Cherry moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 129**. Agreed.

Representative Cherry moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 129**. Agreed.

Representative Cherry moved that **HB 129**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 86, Nays 11**. (See February 28, 2002, roll call on **HB 129** - Appendix.)

HB 129, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Cherry moved that the vote by which **HB 129**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to grant floor privileges to Mrs. Cawood Ledford. Agreed.

Mrs. Cawood Ledford was presented a framed copy of **HR 152**, that was signed by members of the House of Representatives.

Orders of the Day (Continued)

HB 415, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved the adoption of the Committee Substitute to **HB 415**. Agreed.

Representative Heleringer moved the adoption of Floor Amendment No. 1 to the committee Substitute to **HB 415**. Agreed.

Representative Heleringer moved that **HB 415**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 28, 2002, roll call on **HB 415** - Appendix.)

HB 415, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Heleringer moved that the vote by which **HB 415**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 325, HB 386, HCR 70,** and **HCR 71** were delivered to the Senate and signed by the President. Delivered to the Governor on February 28 at 3:55 p.m.

Orders of the Day (Continued)

HB 100, with Committee Substitute, Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of the Committee Substitute to **HB 100**. Agreed.

Representative Wilkey moved that **HB 100**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 1**. (See February 28, 2002, roll call on **HB 100** - Appendix.)

HB 100, by way of Committee Substitute, was passed.

Representative Wilkey moved the adoption of Committee Amendment No. 1 Title to **HB 100**. Agreed.

Representative Wilkey moved that the vote by which **HB 100**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 537 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nesler moved that **HB 537** be passed.

On the roll call the vote was: **Yeas 66, Nays 24**. (See February 28, 2002, roll call on **HB 537** - Appendix.)

HB 537 was passed and the title agreed to.

Representative Nesler moved that the vote by which **HB 537** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 471 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved that **HB 471** be passed.

On the roll call the vote was: **Yeas 67, Nays 18**. (See February 28, 2002, roll call on **HB 471** - Appendix.)

HB 471 was passed and the title agreed to.

Representative A. Arnold moved that the vote by which **HB 471** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to grant floor privileges to Carl Beshear. Agreed.

HB 590, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved the adoption of the Committee Substitute to **HB 590**. Agreed.

Representative A. Arnold moved that **HB 590**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 51, Nays 32**. (See February 28, 2002, roll call on **HB 590** - Appendix.)

HB 590, by way of Committee Substitute, was passed and the title agreed to.

Representative A. Arnold moved that the vote by which **HB 590**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that **HB 766** be reassigned to the Committee on Banking and Insurance. Agreed.

Representative Stumbo moved to suspend the rules for Introductions of Bills and Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 799, by Representatives Palumbo and Jenkins: AN ACT relating to animal cruelty.

HB 800, by Representative Fischer: AN ACT relating to proposing an amendment to Sections 36 and 42 of the Constitution of Kentucky relating to legislative sessions.

HB 801, by Representative Geveden: AN ACT relating to state government.

HB 802, by Representative Geveden: AN ACT relating to state government.

HB 803, by Representative Rasche: AN ACT relating to water faucets.

HB 804, by Representative Heleringer: AN ACT relating to charitable gaming.

HB 805, by Representative Webb: AN ACT relating to children and minors.

HB 806, by Representative Gooch: AN ACT relating to vehicles that may be driven on public highways.

HB 807, by Representative Haydon: AN ACT relating to wineries.

HB 808, by Representative Haydon: AN ACT relating to the handling of wines, fortified wines, and brandies, including the retail sale thereof, by wineries.

HB 809, by Representatives Childers and J. Turner: AN ACT relating to access for the abatement of a surface mining violation.

HB 810, by Representative Palumbo: AN ACT relating to the Commission on Small Business Advocacy.

HB 811, by Representative Thomas: AN ACT relating to agroterroism.

HR 203, by Representative Gray: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Walter "Mike" South.

HR 204, by Representative Upchurch: A RESOLUTION adjourning the House of Representatives in loving memory and honor of D. H. "Drex" Campbell.

HJR 205, by Representative Nunn: A JOINT RESOLUTION authorizing and directing a study of adult foster care.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Tourism Development and Energy: **HB 737, HB 204**

State Government: **HR 184, HB 568, HB 717, HB 723, HB 728, HB 749, 759, HB 775, HB 771, HB 748, HB 398, HB 594**

Withdrawn: **HB 21**

Motions, Petitions, and Communications (Continued)

Representative Allen moved the adoption of the following **Legislative Citation No. 71**.

The House of Representatives of the Commonwealth of Kentucky hereby affords highest regards to Representative John Vincent upon being named the well-deserving recipient of the 2002 Legislative Safety Award by the Kentucky Academy of Trial Attorneys and the Kentucky Family Safety Foundation. Inasmuch as this prestigious recognition reflects the devoted stewardship that this esteemed gentleman has rendered on behalf of his profession and as a member of this honorable body, the entire membership is delighted to join Representative Woody Allen in applauding our colleague and friend, Representative John Vincent for this notable accomplishment and in extending to him best wishes for success and good fortune as he continues to labor on behalf of the citizenry of his community and this Commonwealth. Done in Frankfort, Kentucky, this twenty-eighth day of February, in the year two thousand and two.

Legislative Citation No. 71 was adopted without objection.

Representative Upchurch moved that the rules be suspended to act on a Resolution. Agreed.

Representative Upchurch moved the adoption of the following **HR 204**:

HR 204, A RESOLUTION adjourning the House of Representatives in loving memory and honor of D. H. "Drex" Campbell.

With deepest respect and admiration, we pay homage and tribute to D. H. "Drex" Campbell, and we pause in silent reverence for his soul.

WHEREAS, D. H. "Drex" Campbell was born on January 8, 1923, a native of Gray, Knox County, Kentucky, and longtime resident of Pine Knot, McCreary County, Kentucky, and he traversed these earthly bounds on February 9, 2002; and

WHEREAS, D. H. "Drex" Campbell was the loving son of the late B. R. and Jennie Ridner Campbell; he was the loving brother of two sisters, Janice Frederick and Joy Baker, both of Corbin; he was the devoted husband of Joan Foster Campbell; he was the adored father of a son, Larry Campbell, and a daughter, Kandi Cordell, both of Pine Knot; and he was the proud grandfather of four grandchildren and two great-grandchildren; and

WHEREAS, D. H. "Drex" Campbell was an esteemed member of the McCreary County community where he and his father were partners in B. R. Campbell and Son, a coal business in Pine Knot, beginning in 1947, and later sold to Stearns Coal and Lumber Company; and he started D. H. Campbell, Inc., a coal mining and equipment hauling firm in the 1960s; he began developing land in the area in the early 1980s, and through the years, he also owned and operated lumber mills, laundries, and a building supply store; and

WHEREAS, D. H. "Drex" Campbell served many years on the McCreary County water board where he helped oversee expansion of the area's water system and construction of the county's first public sewer system; and he also was on the board of Highland Telephone Cooperative; and

WHEREAS, D. H. "Drex" Campbell contributed greatly to worthy and charitable causes in his community; to mention only a few, he contributed to fire departments, a much-needed nursing home, a local education center, and a veterans' memorial; and he served his country with pride and distinction in the United States Navy; and

WHEREAS, the passing of D. H. "Drex" Campbell has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its utter sense of bereavement upon the passing of D. H. "Drex" Campbell, and extends to his family and many friends its most profound and deepest sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of D. H. "Drex" Campbell.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Joan Foster Campbell, P. O. Box 176, Pine Knot, Kentucky 42635.

There being no objection **HR 204** was adopted.

Representative C. Belcher moved the adoption of the following **HR 194**:

HR 194, A RESOLUTION proclaiming January 18-19, 2003, as World Religion Weekend in the Commonwealth of Kentucky.

WHEREAS, the third Sunday in January is World Religion Day, inaugurated forty-one years ago, and now regularly observed in over eighty countries; and

WHEREAS, there can be no peace in the world until there is equality, justice, and security everywhere for human beings; and

WHEREAS, technological advances have brought about an interdependence that has made us all inhabitants of a global village, making human unity and true equality one of our most important goals; and

WHEREAS, there is an urgent need to work to remove the causes of war in the minds and hearts of mankind;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby proclaim January 18-19, 2003, as World Religion Weekend, and we urge the Commonwealth's citizens to participate in the observance of World Religion Weekend.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Carolyn Belcher for presentation to the proper authorities.

There being no objection **HR 194** was adopted.

Representative C. Belcher moved the adoption of the following **HR 193**:

HR 193, A RESOLUTION declaring the month of May 2002, as Motorcycle Awareness Month.

WHEREAS, the safe operation of a motorcycle requires the use of special skills developed through a combination of training and experience, the use of good judgment, and a thorough knowledge of traffic laws and licensing requirements; and

WHEREAS, Kentucky has 120,000 individuals who have valid operator and chauffeur licenses with a motorcycle endorsement; and

WHEREAS, it is especially important that the citizens of our state be aware of motorcycles on the highways and recognize the importance of motorcycle safety; and

WHEREAS, all motorcycle organizations, clubs, dealerships, groups, and highway officials in our state should join with the Kentucky Motorcycle Safety Program and the Kentucky Motorcycle Association in actively promoting safe operations, increased rider training, improved licensing efforts, and motorist awareness; and

WHEREAS, during the month of May 2002, all highway users should unite in the safe sharing of roadways throughout the Commonwealth of Kentucky; and

WHEREAS, this special Motorcycle Awareness Campaign also encourages other motor vehicle operators to be cautious and observe these motorcycles, especially during the seasonal return of motorcycles to the Commonwealth's streets and highways;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby declare the month of May 2002, as Motorcycle Awareness Month, and we do hereby urge all citizens to develop a caring attitude toward sharing the road.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Carolyn Belcher for distribution to the proper authorities.

There being no objection **HR 193** was adopted.

Representative Bather moved the adoption of the following **HR 198**:

HR 198, A RESOLUTION declaring February 28, 2002, as Kentucky African-American Heritage Commission Day and recognizing the 2002 African-American Heritage Forum.

WHEREAS, the Kentucky African-American Heritage Commission was created by Executive Order of former Governor Brereton Jones in 1994, and authorized by the Kentucky General Assembly in 1996; and

WHEREAS, the African-American Heritage Program is a valuable and noteworthy effort, established as a branch within the Kentucky Heritage Council; and

WHEREAS, the Kentucky African-American Heritage Commission is dedicated to the preservation and protection of all meaningful vestiges of Kentucky's African-American heritage; and

WHEREAS, the Kentucky African-American Heritage Commission serves in an advisory capacity for the agencies of the Education, Arts and Humanities Cabinet on issues pertaining to African-American history and heritage preservation; and

WHEREAS, the Kentucky African-American Heritage Commission also serves as an advocate for the preservation, conservation, and interpretation of significant buildings, sites, neighborhoods, documents, artifacts, and lifeways that represent and embody African-American heritage; and

WHEREAS, the mission of the Kentucky African-American Heritage Commission is to identify and promote awareness of the significant African-American influences upon the history and culture of Kentucky, along with the many and varied contributions African-Americans have made to our social and cultural life within the Commonwealth of Kentucky; and

WHEREAS, the First Annual African-American Heritage Forum will convene on February 28, 2002, with a theme "Looking Back...Moving Forward: Discovering, Preserving, and Sharing Kentucky's African-American Heritage in the New Millennium."; and

WHEREAS, the African-American Heritage Forum is unique in nature because it is the first statewide attempt to bring together university historians, preservationists, grass root organizations, and community leaders to establish a statewide agenda for the preservation of African-American heritage;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby declare February 28, 2002, as Kentucky African-American Heritage Commission Day, and recognize February 28, 2002, as the date of the First Annual African-American Heritage Forum.

Section 2. The House of Representatives does hereby acknowledge the invaluable services of the Kentucky African-American Heritage Commission, the Kentucky Heritage Council, the Martin Luther King, Jr. Commission, Kentucky State University, and the Education, Arts & Humanities Cabinet to the citizens of the Commonwealth of Kentucky, and calls upon the citizens of the Commonwealth of Kentucky in recognizing and participating in the special observance.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. David L. Morgan, Executive Director, Kentucky Heritage Council, 300 Washington Street, Frankfort, Kentucky 40601.

There being no objection **HR 198** was adopted.

Representative Branham moved that **HJR 81** be withdrawn. Agreed.

Representative Branham moved that **HR 196** be withdrawn. Agreed.

Representative J. Turner moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Turner moved that his vote be changed from "yea" to "nay" on **HB 471**. Agreed.

Representative Coleman moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Coleman moved that he be recorded as voting "yea" on **HB 617, HB 487, HB 165, HB 593, HB 653, HCR 56, HB 222, HB 249, HB 535, HB 611, HJR 94, HB 180,** and **HB 289**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Palumbo moved that she be recorded as voting "nay" on **HB 104**. Agreed.

Representative C. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative C. Belcher moved that she be recorded as voting "nay" on **HB 590**. Agreed.

Representative C. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative C. Belcher moved that her vote be changed from "nay" to "yea" on **HB 129**. Agreed.

Representative Riner moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Riner moved that he be recorded as voting "yea" on **HB 165**. Agreed.

Representative Yonts moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Yonts moved that his vote be changed from "yea" to "abstain" on **HB 180**. Agreed.

Representative Yonts moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Yonts moved that his vote be changed from "yea" to "nay" on **HB 471** and **HB 590**. Agreed.

Representative Weaver moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Weaver moved that his vote be changed from "yea" to "nay" on **HB 590**. Agreed.

Representative Allen moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Allen moved that his vote be changed from "yea" to "nay" on **HB 471**. Agreed.

Representative Moberly moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Moberly moved that he be recorded as voting "nay" on **HB 590**. Agreed.

Representative Sims moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Sims moved that her vote be changed from "yea" to "nay" on **HB 590**. Agreed.

Representative L. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative L. Belcher moved that his vote be changed from "yea" to "nay" on **HB 590**. Agreed.

Representative Childers moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Childers moved that he be recorded as voting "nay" on **HB 590**. Agreed.

Representative Gooch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gooch moved that his vote be changed from "yea" to "nay" on **HB 590**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Palumbo moved that her vote be changed from "yea" to "nay" on **HB 590**. Agreed.

Representative Haydon moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Haydon moved that he be recorded as voting "nay" on **HB 590**. Agreed.

Representative Thomas moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Thomas moved that he be recorded as voting "yea" on **HB 104**. Agreed.

Representative Ballard moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ballard moved that his vote be changed from "yea" to "nay" on **HB 471**. Agreed.

Representative J. Lee moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Lee moved that his vote be changed from "yea" to "nay" on **HB 590**. Agreed.

Representative Tapp moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Tapp moved that his vote be changed from "yea" to "nay" on **HB 471**. Agreed.

Representative Coleman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Coleman moved that his vote be changed from "yea" to "nay" on **HB 590**. Agreed.

Representative Westrom moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Westrom moved that she be recorded as voting "nay" on **HB 590**. Agreed.

Representative R. Adams moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative R. Adams moved that his vote be changed from "yea" to "nay" on **HB 590**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to the Committee Substitute No. 2 to **HB 455**, by Representative Brinkman:

On page 2, line 1, after "*shall*" by deleting "*captitate*" and inserting "*cap*" in lieu thereof.

Floor Amendment No. 1 to the Committee Substitute to **SB 26**, by Representative Stein:

On page 2, line 4, following "of the victim" to insert "***, burglary in the first degree accompanied by the commission or attempted commission of a felony sexual offense in KRS Chapter 510, burglary in the first degree accompanied by the commission or attempted commission of an assault described in KRS 508.010, 508.020, 508.032, or 508.060, burglary in the first degree accompanied by commission or attempted commission of kidnapping as prohibited by KRS 509.040***".

House Floor Amendment No. 1 Title to **SB 74**, by Representative Rasche:

Amend the title to read" AN ACT relating to college preparatory educational programs."

Floor Amendment No. 2 to **HB 654**, by Representative Denham:

On page 3, in between lines 15 and 16, insert the following:

"*(d) Department of Fish and Wildlife Resources Commission, appointed by the commissioner of the department;*"; and

On page 3, line 16, delete "*(d)*" and insert in lieu thereof "*(e)*"; and

On page 3, line 17, delete "*(e)*" and insert in lieu thereof "*(f)*"; and

On page 3, line 18, delete "*(f)*" and insert in lieu thereof "*(g)*"; and

On page 3, line 18, delete "*and*"; and

On page 3, line 19, delete "*(g)*" and insert in lieu thereof "*(h)*"; and

On page 3, line 19, after "*;*" insert "*and*"; and

On page 3, in between lines 19 and 20, insert the following:

"*(i) Kentucky Association of Fairs and Horse Shows;*".

Floor Amendment No. 4 to **HB 576**, by Representative Childers:

On page 1, delete line 13 through 15 in their entirety and insert in lieu thereof

"(4) "Qualified person" means a person ***who is an owner of a dog, cat, or ferret who has submitted written certification to the secretary of health services that he has vaccinated his dog, cat, or ferret for rabies, and the certificate shall include the date of the vaccination and the owner's signature;***~~[granted a permit by the secretary of health services to vaccinate animals against rabies and may include owners or operators of licensed kennels; and]~~"; and

On page 2, line 27, by inserting after "dog", "***, cat, or ferret***"; and

On page 4, line 5, by inserting after "dog", "***, cat, or ferret***"; and

On page 4, line 6, by inserting after "dog", "***, cat, or ferret***".

Floor Amendment No. 4 to the Committee Substitute to **HB 602**, by Representative Wilkey:

On page 28, line 19, after "***least***" delete "***one hundred (100)***" and insert in lieu thereof "***fifty (50)***" and after "***land***" insert "***, unless approved otherwise by the Kentucky Economic Development Authority in consideration of the geography of the area***";

On page 55, line 21, after the second "***,***" insert "***or in an industrial park created pursuant to an interlocal agreement in which revenues are shared as provided in KRS 65.245,***";

On page 55, line 22, after the word "***the***" delete "***regional***";

On page 55, line 25, after the first "***the***" delete "***regional***"; and

On page 57, between lines 9 and 10, by inserting:

"***For an eligible company, within a regional industrial park which lies within two (2) or more counties, the calculation of the wage and benefit requirement shall be determined by averaging the average county hourly wage for all counties within the regional industrial park.***"

Floor Amendment No. 5 to **HB 576**, by Representative Thomas:

On page 6, line 23, delete "***12***" and insert in lieu thereof "***11***"; and

On page 8, after line 10, by deleting lines 11 through 23, and by renumbering the remaining sections; and

On page 12, line 22, after "(1)", by inserting "***The governing body of each county may establish by ordinance a dog or kennel licensing program.***"; and

On page 12, line 23, after "***licensing***", by inserting "***program***", and by deleting the remainder of the line; and

On page 12, line 24, through page 13, line 18, by deleting all the new language and by removing all the brackets and strikethroughs, and then by bracketing and striking through all the existing language from page 12, line 24, through page 13, line 18, through "counties"; and

On page 13, line 19, by deleting "***(3)***" and by removing the brackets and strikethroughs from "~~[(2)]~~"; and

On page 13, line 21, after "vaccination", through line 22, by deleting all the new language and by removing all the brackets and strikethroughs, and by then bracketing and striking through ", provided the dog shall be licensed each fiscal year"; and

On page 13, after line 22, by deleting all the language to page 15, line 18, and by renumbering the remaining sections; and

On page 16, line 2, after "***in***", by deleting "***Franklin***", and by inserting in lieu thereof "***the***"; and

On page 16, line 3, after "***Court***", by inserting "***of jurisdiction***", and after the second "***the***", by deleting "***Attorney General***", and by inserting in lieu thereof "***Commonwealth's attorney in that jurisdiction***"; and

On page 17, line 6, after the second "of", by deleting the new language; and

On page 17, line 7, by deleting "***258.500***", by removing the brackets and strikethroughs from "~~[this chapter]~~", and by then bracketing and striking through "this chapter or"; and

On page 17, after line 8, by deleting all the language through line 23, and by renumbering the remaining sections; and

On page 17, beginning on line 25, after the second "***officer***", by deleting "***, or may be taken by any citizen,***"; and

On page 19, line 9, after "***vaccination***", by deleting the new language through "***license***"; and

On page 19, line 10, after "***vaccination***", by deleting "***and state license***"; and

On page 19, line 11, after "***shelter***", by deleting the new language through "***facility***" on line 12; and

On page 20, line 9, after "***258.500***", through line 11, by deleting all the new language and by removing the brackets and strikethroughs, and by then bracketing and striking through the language from line 9, after "***258.500***", through "commissioner" on line 11,; and

On page 22, line 22, after "which", by inserting "***is currently licensed***", and by bracketing and striking through "bears a license tag for the current year"; and

On page 25, line 26, after "258.015", by inserting "***and***", and by bracketing and striking through ",", and after "258.135", by bracketing and striking through "and 258.145"; and

On page 26, line 14, after "all", by bracketing and striking through "state and local"; and

On page 35, after line 22, by inserting:

"258.105 Enforcement by commissioner of agriculture--Employment and powers of personnel."; and

On page 35, after line 24, by inserting:

"258.145 Licenses and tags--Tattooing of dogs--Tag to be affixed to collar--Burden of proof of license.
258.155 License for part of year.
258.165 Kennel licenses and tags.
258.175 Dogs to be kept in kennel.
258.185 Records of dog and kennel licenses.
258.205 Dog temporarily in state need not be licensed--Burden of proof."; and

On page 36, after line 11, by inserting the following noncodified language:

"Section 33. Any funds remaining in the Livestock Fund sixty (60) days after the effective date of this Act shall be deposited in the Animal Control and Care Fund created by Section 12 of this Act.".

Floor Amendment No. 5 to the Committee Substitute to **HB 602**, by Representative Fischer:

On page 131, between line 14 and 15 add:

"Section 43. KRS 154.45-050 is amended to read as follows:

(1) In addition to the seven (7) existing state enterprise zones, the authority may designate three (3) additional state enterprise zones by December 31, 1988. In deciding which areas should be designated as enterprise zones the authority shall give preference to:
    (a) Local governments that have documented the greatest commitment to the goals established pursuant to KRS 154.45-001;
    (b) Areas with the highest levels of poverty, unemployment, and general distress; and
    (c) Areas that have the greatest support from the local government seeking designation, the community, residents, local business, and private organizations, taking into account the resources available to the local government.

(2) Designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of designation and ending on December 31 of the ***thirtieth***[~~twentieth~~] year following designation.

(3) The authority shall remove the designation of an area as an enterprise zone if the area no longer meets the criteria for designation as set out in KRS 154.45-020 to 154.45-110 or by administrative regulation adopted by the authority pursuant to KRS 154.45-020 to 154.45-110. The authority shall establish by administrative regulation a procedure for revocation of the designation of an enterprise zone. The authority shall ensure that local governments shall be notified in writing of the authority's intent and reasons for considering revocation of the designation. The authority shall establish a reasonable time frame within which the local government may correct the problems cited by the authority to avoid revocation of the enterprise zone designation.

(4) A local government that has had an enterprise zone designation revoked shall be prohibited from applying for future enterprise zone designations for at least five (5) years. The authority may, by administrative regulation, extend the time frame that a local government is prohibited from participating in the enterprise zone program.

(5) If the authority revokes the designation of an enterprise zone, it shall immediately begin reviewing the applications of local governments seeking an enterprise zone and designate a new area as an enterprise zone as soon as possible.

(6) If the authority removes the designation of an area as an enterprise zone pursuant to this section, the qualified businesses within the area shall retain certification and shall remain eligible to receive tax exemptions pursuant to KRS 154.45-090 until December 31 of the ***thirtieth***[~~twentieth~~] year from the date of the original designation of the area as an enterprise zone."; and

On page 131, line 15, after "Section" delete "43" and insert "44".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 129, Representatives Crenshaw and Meeks

HB 204, Representative Upchurch

HB 533, Representatives Kerr and Richards

HB 553, Representative Coleman

HB 598, Representatives Feeley and Marzian

HB 600, Representative Coleman

HB 678, Representative Nunn

HB 708, Representative Gooch

HB 743, Representative Siler

HB 755, Representative Denham

HB 769, Representatives Brinkman and Nunn

HJR 175, Representative Marcotte

HR 194, Representative Stein.

The following members have filed a request to have their names withdrawn as co-sponsors of the following Bills:

HB 682, Representative Wilkey

HB 776, Representative J. Adams.

Announcements

The following meetings were announced:

Budget Review Subcommittee on Human Resources: no meeting, March 4, 2002, at 1:00 p.m., but will meet upon adjournment

Budget Review Subcommittee on Economic Development: upon adjournment, February 28, 2002, Room 131

Adjournment

Representative Stumbo moved that the House adjourn until 9:00 a.m., on Friday, March 1, 2002.

The motion that the House adjourn until 9:00 a.m., on Friday, March 1, 2002, was adopted by voice vote.

FRIDAY, MARCH 1, 2002

THIRTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend David Hinson, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives J. Arnold and Stumbo.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Thursday, February 28, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 812, by Representative Moberly: AN ACT relating to property tax collections.

HB 813, by Representative Marzian: AN ACT relating to guardianship of minor children.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SB 13**

Appropriations and Revenue: **SB 133**

Economic Development: **HB 810**

Education: **SB 99, 159, 192**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 800**

Health and Welfare: **HJR 205; SB 130, SCR 76**

Judiciary: **HB 799, 805, 811, SB 80, 88, 111**

Labor and Industry: **HB 803**

Licensing and Occupations: **HB 804, 807, 808**

Natural Resources and Environment: **HB 809**

State Government: **HB 801, 802**

Tourism Development and Energy: **SB 176**

Transportation: **HB 806**

House Floor: **HR 202, 203**

Senate Message

Announcing passage of **SB 36, SB 41, SB 146, HB 43, HB 254, HB 305, HB 346, HJR 3, HJR 9, HCR 10,** and **HCR 12**.

Message received in regard to **HB 399**: The Senate has passed **HB 399** with the following Senate Committee Amendment No. 1, and respectfully requests concurrence of this Honorable Body. (Time 9:15 a.m.)

Report of Committees

The Committee on Rules reported that **HB 334, HB 682, SB 90,** and **SB 125** have been posted for passage in the Orders of the Day for March 4, 2002.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Judiciary: **HB 270, HB 751, HCR 182**

Licensing and Occupations: **HB 743**

The Clerk announced that the following Bills have been withdrawn from posting for Committee consideration:

Judiciary: **HB 472, HB 524**

Calendar

HB 467, HB 693, HB 731, HJR 148, SB 2, HB 588, HB 703, SB 128, HB 503, HB 598, HB 650, HB 679, HB 702, SB 112, SB 143, HB 117, HB 498, HB 685, HJR 92, HJR 140, HJR 157, HJR 167, HJR 168, HJR 169, SB 7, SB 18, SB 107, SJR 16, SJR 23, SJR 39, HCR 147, HCR 159, SB 86, and **SCR 47** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions Petitions, and Communications

Representative Bowling moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Bowling moved that his vote be changed from "yea" to "nay" on **HB 590** and **HB 471**. Agreed.

Representative Pasley moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Pasley moved that his vote be changed from "yea" to "nay" on **HB 590** and **HB 471**. Agreed.

Orders of the Day

HB 188, with Committee Substitutes and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Barrows moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved the adoption of the Committee Substitute No. 2 to **HB 188**. Agreed.

Representative Weaver moved that **HB 188**, by way of Committee Substitute No. 2, be passed.

Representative Burch moved the adoption of Floor Amendment No. 1 to the Committee Substitute No. 2 to **HB 188**.

On the roll call the vote was: **Yeas 24, Nays 68**. (See March 1, 2002, roll call on **HB 188** - Appendix.)

Floor Amendment No. 1 to the Committee Substitute No. 2 to **HB 188** was rejected.

Representative Wayne moved the adoption of Floor Amendment No. 3 to the Committee Substitute No. 2 to **HB 188**.

On the roll call the vote was: **Yeas 16, Nays 75**. (See March 1, 2002, roll call on **HB 188** - Appendix.)

Floor Amendment No. 3 to the Committee Substitute No. 2 to **HB 188** was rejected.

Pro Tem L. Clark assumed the Chair.

Speaker Richards resumed the Chair.

On the roll call on the motion that **HB 188**, by way of Committee Substitute, be passed the vote was: **Yeas 79, Nays 13**. (See March 1, 2002, roll call on **HB 188** - Appendix.)

HB 188, by way of Committee Substitute, was passed and the title agreed to.

Representative Weaver moved that the vote by which **HB 188**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 43, HB 254, HB 305, HB 346, HJR 3, HJR 9, HCR 10**, and **HCR 12** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -11:40 a.m.)

Motions, Petitions, and Communications (Continued)

Representative Hoover moved the adoption of the following **Legislative Citation No. 72**.

The House of Representatives of the Commonwealth of Kentucky hereby pays most ardent tribute to Jane C. Rose upon being named, by the Kentucky Federation of Republican Women, the well-deserving recipient of the "My Favorite Teacher Award," which recognizes the positive impact an outstanding teacher can have on every individual. Inasmuch as this prestigious accolade demonstrates the unwavering commitment that Ms. Rose, a retired Jeffersontown High School educator and part-time teacher at Male Traditional High School, has consistently exhibited while fulfilling her most significant role as mentor and instructor to those young people entrusted to her care, the members of this august body are delighted to join Representative Jeffrey Hoover in commending her for the effort she has put forth to promote excellence in education and in extending to her sincere sentiments of gratitude for encouraging her students to dream big and then working diligently to give them the educational skills necessary to realize those dreams. Done in Frankfort, Kentucky, this first day of March, in the year two thousand and two.

Legislative Citation No. 72 was adopted without objection.

Representative Hoffman moved the adoption of the following **Legislative Citation No. 73**.

The House of Representatives of the Commonwealth of Kentucky hereby honors and congratulates the Georgetown College Tigers Football Team for outstanding performance which has resulted in this phenomenal group of athletes being crowned the NAIA National Champions for the second consecutive year. Under the skilled tutelage of Head Coach Bill Cronin and his most capable staff, the members of this celebrated team have appeared in three straight National Championship games; extended their winning streak to thirty-three regular season games and twenty-eight overall games, with three straight undefeated seasons; and have demonstrated extraordinary talent and dedication to the sport of football, have brought great honor to this Commonwealth and have added to the winning tradition associated with the Georgetown College athletic program. The members of this distinguished body are pleased to join Representative Charlie Hoffman in recognizing the notable achievements of the Georgetown College Tigers Football Team and in extending best wishes for continued monuments of athletic success. Done in Frankfort, Kentucky, this first day of March, in the year two thousand and two.

Legislative Citation No. 73 was adopted without objection.

Representative Graham moved the adoption of the following **HR 200**:

HR 200, A RESOLUTION adjourning the House of Representatives in honor of Millie "MeMe" Combs.

WHEREAS, Millie "MeMe" Combs was born on March 4, 1902, married the late William Taylor Combs, and is the reigning matriarch of her family; and

WHEREAS, Millie "MeMe" Combs has been blessed with nine children, Florabelle Combs-Campbell, Charles W. Combs (deceased), Anna E. Combs-Davis (deceased), Mary E. Combs-Miles, Robert E. Combs, James E. Combs, Geneva C. Craig (deceased), Maggie L. Combs, and Dorothy J. Combs-McGowan, and is the proud grandmother of twenty, great grandmother of twenty-three, and great-great grandmother of five; and

WHEREAS, Millie "MeMe" Combs will celebrate her one hundredth birthday on March 4, 2002, and will be the guest of honor at a pre-birthday celebration with five generations of her family and friends on March 2, 2002, at the First Church of the Nazarene in Frankfort, Kentucky; and

WHEREAS, Millie "MeMe" Combs is a life-long resident of Frankfort, Kentucky, having been recognized for her accomplishments on many occasions and recipient of many honors and awards, including appointment as a Kentucky Colonel and Kentucky Admiral;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby recognize and commend Millie "MeMe" Combs for her many contributions to her community and to this Commonwealth.

Section 2. The House of Representatives does hereby acknowledge occurrence of the one hundredth birthday of Millie "MeMe" Combs and joins her in celebration.

Section 3. When the House of Representatives adjourns this day, it does so in honor of Millie "MeMe" Combs.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Millie "MeMe" Combs, 929 Atwood Avenue, Frankfort, Kentucky 40601.

There being no objection **HR 200** was adopted.

Representative Barrows moved that the rules be suspended for Introductions of Bills and Report of Committees. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 814, by Representative Lindsay: AN ACT relating to the Court of Justice.

HB 815, by Representative Lindsay: AN ACT relating to crimes and punishments.

HB 816, by Representative Lindsay: AN ACT relating to state government.

HB 817, by Representative Lindsay: AN ACT relating to nursing facilities.

HB 818, by Representative J. Adams: AN ACT relating to the Early Childhood Development Authority.

HB 819, by Representative Westrom: AN ACT relating to prescription drugs for seniors and Medicare beneficiaries and making an appropriation therefor.

HB 820, by Representative Pullin: AN ACT creating an additional circuit court judgeship in the Twentieth Judicial Circuit.

HB 821, by Representative Pullin: AN ACT relating to health insurance.

HB 822, by Representative Pullin: AN ACT relating to health insurance.

HB 823, by Representative Gooch: AN ACT relating to examination of conveyor belts at mines.

HB 824, by Representative Webb: AN ACT relating to Medicaid waivers for acquired brain injury care.

HB 825, by Representative Moberly: AN ACT relating to revenue and taxation.

HB 826, by Representative Heleringer: AN ACT relating to revenue and taxation.

HB 827, by Representative Kerr: AN ACT relating to retirement.

HB 828, by Representative Brinkman: AN ACT relating to the establishment of nursing home beds.

HB 829, by Representative Wayne: AN ACT relating to campus safety.

HR 206, by Representatives Gray, Rasche, Nesler, Cherry, Geveden, and Buckingham: A RESOLUTION urging BellSouth to reconsider closing its Western Kentucky call center.

HCR 207, by Representative Westrom: A CONCURRENT RESOLUTION relating to a task force to complete a study to enhance the privacy, confidentiality, and security of protected health information.

HR 208, by Representative Pullin: A RESOLUTION urging the United States President and Congress to take action to address the high cost of prescription medication and to enact a prescription drug benefit program for seniors.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Economic Development: **HB 810, HCR 199**

Tourism Development and Energy: **HB 105**

Appropriations and Revenue: **HB 15, HB 76, HB 294, HB 541, HB 542, HB 545, HB 637, HB 628**

Education: **HB 747, HB 755, HCR 177, HCR 185, HJR 160, HJR 186, HJR 188, HB 686**

State Government: **HB 801, HB 802**

Motions, Petitions, and Communications (Continued)

Representative Marcotte moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Marcotte moved that he be recorded as voting "yea" on **HB 188**. Agreed.

Representative Haydon moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Haydon moved that his vote be changed from "yea" to "nay" on Floor Amendment No. 3 to **HB 188**. Agreed.

Representative Thompson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Thompson moved that he be recorded as voting "nay" on Floor Amendment No. 1 to **HB 188**. Agreed.

Representative Brinkman moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Brinkman moved that he be recorded as voting "nay" on **HB 471** and **HB 590**. Agreed.

Representative Simpson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Simpson moved that his vote be changed from "yea" to "nay" on **HB 590**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 2 to **HB 705**, by Representative Yonts:

On page 1, line 9, after "***KRS 353.590.***" by inserting "***With respect to permits issued prior to the effective date of this Act, no extension shall be granted for any permit in cases where there has been a complete severance of the ownership of the oil and gas from the ownership of the surface to be disturbed, absent evidence of written consent by the surface owner, by lease, contract, or other written document, to the requested extension.***"

Floor Amendment No. 1 to the Committee Substitute to **HB 598**, by Representative Riggs:

On Page 8. after line 6, by inserting and underlining,

"***(9) A party aggrieved by a final action of a planning commission under the provisions of KRS 100.985 to 100.987 may bring an action for review in any court of competent jurisdiction.***".

Floor Amendment No. 1 to the Committee Substitute to **HB 685**, by Representative J. Lee:

On page 2, line 25, after the word "a" delete the word "***regular***" and after the word "be" insert "***ten dollars ($10)***" and bracket and strike through "twenty-five dollars ($25)"; and

On page 2, line 27, after the word "receive" insert "***five dollars ($5)***" and bracket and strike through "twenty dollars ($20)" and after the period "." delete the remainder of the line in its entirety; and

On page 3, lines 1 through 3, delete lines 1 through 3 in their entirety.

Floor Amendment No. 1 to the Committee Substitute No. 2 to **HB 68**, by Representative J. Turner:

On page 7, line 5, by deleting the words "***Between July 1, 2003, and July 1, 2004,***"; and by capitalizing the word "***a***".

Floor Amendment No. 2 to the Committee Substitute No. 2 to **HB 68**, by Representative J. Turner:

On page 9, between lines 18 and 19, insert a new Section 6 to read as follows:

"Section 6. The Transportation Cabinet shall erect signs notifying the traveling public that seat belt use is a requirement in Kentucky at every border crossing on the interstate system between Kentucky and neighboring states, at every rest area within the Commonwealth on the interstate system, and every fifty (50) miles on the interstate system, or at another reasonable distance as determined by the Transportation Cabinet. The signs required by this section may be the current signs that depict a person with a seat belt across the body."; and

On page 9, line 19, delete "6" and insert "7" in lieu thereof.

Floor Amendment No. 1 to **SB 117**, by Representative Riggs:

On page 1, line 11, after "*section*" by inserting "*shall be professional liability insurance that covers the legal liability of the licensed person as the result of erroneous acts or failure to act in his or her capacity as a fire protection sprinkler contractor and*".

Floor Amendment No. 1 to the Committee Substitute to **HB 126**, by Representative Feeley:

On page 1, by deleting lines 8 through 16 in their entirety, and inserting in lieu thereof the following:

"*(a) Standardized protocols and guidelines for health procedures to be performed by health professionals and school personnel. The protocols and guidelines shall include, but not be limited to, the following:*

1. The delegation of nursing functions consistent with administrative regulations promulgated by the Kentucky Board of Nursing;

2. Training of designated nonmedical school personnel; and

3. Appropriate documentation and recordkeeping including, but not limited to, notification to school administrators and parents or guardians of the provision of health services by a school employee, including certification of medical necessity for health services signed by a health care professional, and informed consent for the provision of health services by a parent or guardian.

A copy of the protocols and guidelines shall be made available to each school in the Commonwealth and shall be maintained by each school in the school's library;";

On page 3 line 9, after "*employee*" by deleting "*is*";

On page 3, line 10, by deleting "*willing*" and inserting "*consents*"; and

On page 4, line 3, after "*constitutes*" by inserting "*negligence,*".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 188, Representatives Collins and Colter

HB 189, Representative Collins

HB 190, Representative Collins

HB 811, Representative Vincent

HR 199, Representative Treesh.

Announcements

The following meetings were announced:

Licensing and Occupations: Monday, March 4, 2002, noon, Room 149

Budget Review Subcommittee on Human Resources: Monday, March 4, 2002, upon adjournment

Adjournment

Representative Barrows moved that the House adjourn until 4:00 p.m. on Monday, March 4, 2002.

The motion that the House adjourn until 4:00 p.m., Monday, March 4, 2002, was adopted by voice vote.

MONDAY, MARCH 4, 2002

THIRTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Mr. Ernie Hillenmeyer, St. James Catholic Church, Brooksville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Stumbo, Thomas, and Upchurch.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Friday, March 1, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Ford moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Ford moved the adoption of the following **Legislative Citation No. 74**.

The House of Representatives of the Commonwealth of Kentucky hereby offers a most enthusiastic welcome to Betty Lou York and Glenn Thompson as they visit the House Chambers during a day in the Regular Session of the 2002 Kentucky General Assembly to provide entertainment to the members of this body. As two of the beloved performers at Renfro Valley, Kentucky's Country Music Capitol, these remarkable artists have performed together before as part of the music and comedy routine known as the "Front Porch Pickin'" show and are widely regarded for their individual talents as a comedienne and guitarist respectively. Inasmuch as Betty Lou York and Glenn Thompson have provided a welcome respite from the diligent activities of this legislative session by their laudable performance, the members of this distinguished body are honored to join Representative Danny Ford in offering sincerest gratitude to two of Kentucky's finest performers for the effort that they have put forth in this worthwhile endeavor and in extending to them best wishes for future prosperity and success. Done in Frankfort, Kentucky, this fourth day of March, in the year two thousand and two.

Introductions of Bills and Resolutions

HB 830, by Representative R. Adams: AN ACT relating to emergency traffic control plans.

HB 831, by Representative Bather: AN ACT relating to state legislative districts.

HB 832, by Representative J. Turner: AN ACT relating to workers' compensation.

HB 833, by Representative Rasche: AN ACT relating to education.

HB 834, by Representative Palumbo: AN ACT relating to school athletics.

HB 835, by Representative Palumbo: AN ACT relating to civil actions against inmates.

HB 836, by Representative Gray: AN ACT relating to retirement.

HB 837, by Representative Burch: AN ACT relating to horse racing and declaring an emergency.

HB 838, by Representatives Treesh and C. Belcher: AN ACT relating to local taxation.

HB 839, by Representatives Stein, Palumbo, Barrows, Hoffman, Westrom, and Crenshaw: AN ACT relating to the transportation of persons for hire.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 43, HB 254, HB 305, HB 346, HJR 3, HJR 9, HCR 10,** and **HCR 12** delivered to the Senate and signed by the President. Delivered to the Governor on March 4, 2002, at 4:13 p.m.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 812, 825, 826**

Banking and Insurance: **HB 821, 822, SB 41, 146**

Education: **HB 827, 829**

Health and Welfare: **HB 817, 818, 819, 824, 828, HCR 207, HR 208**

Judiciary: **HB 813, 814, 815, 820**

Natural Resources and Environment: **HB 823**

State Government: **HB 816**

Transportation: **SB 36**

House Floor: **HR 206**

Report of Committees

The Committee on Rules reported that **HB 391** has been posted for passage in the Orders of the Day for March 5, 2002.

Recess

Representative Barrows moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report of Committees (Continued)

Representative Barrows moved to suspend the rules to allow for a Rules Committee Report. Agreed.

The Committee on Rules reported that **HB 455, HB 232, HB 583, HB 613, HB 625, HB 631, HB 672, HB 705, HB 715, HB 720, HB 228, HB 553, HB 571, HB 626, HB 503,** and **HJR 92** have been posted for passage in the Orders of the Day for March 5, 2002.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 588**

Orders of the Day

Representative Callahan moved to suspend the rules to grant floor privileges, to introduce, and to act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 213, by Representatives Callahan, Draud, Walton, Marcotte, Kerr, R. Adams, McKee, and Simpson: A RESOLUTION adjourning the House of Representatives in honor of Sylvan "Smitty" and Janice C. Smith upon the occasion of their fiftieth wedding anniversary on March 1, 2002.

Orders of the Day (Continued)

Representative Callahan moved the adoption of the following **HR 213**:

HR 213, A RESOLUTION adjourning the House of Representatives in honor of Sylvan "Smitty" and Janice C. Smith upon the occasion of their fiftieth wedding anniversary on March 1, 2002.

WHEREAS, Sylvan "Smitty" and Janice C. Smith entered into the bonds of holy matrimony on March 1, 1952, at St. Henry Catholic Church in Erlanger, Kenton County, Kentucky; and

WHEREAS, Sylvan "Smitty" and Janice C. Smith have experienced fifty years filled with love, perpetual friendship, confidence, and integrity; and

WHEREAS, Sylvan "Smitty" and Janice C. Smith are the loving parents of two sons, Bruce Smith of Erlanger and Bradley Smith of Union; and they are the loving parents of three daughters, Barbara Exeler of Erlanger, Beverly Sleet of Orange City, Florida, and Berrie Smith of Florence; and they are the proud grandparents of six grandchildren and a great grandchild; and

WHEREAS, on March 1, 2002, Sylvan "Smitty" and Janice C. Smith will celebrate their fiftieth wedding anniversary;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body holds the institution of marriage in high esteem and is proud and honored to congratulate Sylvan "Smitty" and Janice C. Smith upon the occasion of their fiftieth wedding anniversary on March 1, 2002. To celebrate this glorious occasion, Smitty and Janice will be cruising the Caribbean Sea with members of their loving family.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Sylvan "Smitty" and Janice C. Smith upon the occasion of their fiftieth wedding anniversary.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. and Mrs. Sylvan Smith, 3313 Thomas Street, Erlanger, Kentucky 41018.

There being no objection **HR 213** was adopted.

HB 367, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Barrows moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved the adoption of the Committee Substitute to **HB 367**. Agreed.

Representative Gooch moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 367**. Agreed.

Representative Gooch moved that **HB 367**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 91, Nays 4**. (See March 4, 2002, roll call on **HB 367** - Appendix.)

HB 367, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Gooch moved that the vote by which **HB 367**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SCR 17, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Barrows moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Baugh moved the adoption of the Committee Substitute to **SCR 17**. Agreed.

Representative Baugh moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **SCR 17**. Agreed.

Representative Baugh moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **SCR 17**. Agreed.

Representative Baugh moved that **SCR 17**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 4, 2002, roll call on **SCR 17** - Appendix.)

SCR 17, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Baugh moved that the vote by which **SCR 17**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 39, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Barrows moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeWeese moved the adoption of Floor Amendment No. 1 to **HB 39**. Agreed.

Representative DeWeese moved the adoption of Floor Amendment No. 3 to **HB 39**. Agreed.

Representative DeWeese moved the adoption of Floor Amendment No. 4 to **HB 39**. Agreed.

Representative Stein moved that **HB 39**, be passed, as amended.

On the roll call the vote was: **Yeas 90, Nays 1**. (See March 4, 2002, roll call on **HB 39** - Appendix.)

HB 39, as amended, was passed and the title agreed to.

Representative Stein moved that the vote by which **HB 39**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 47, with Senate Committee Substitute and Senate Floor Amendments attached thereto, taken from the Orders of the Day for concurrence or non concurrence in Senate Amendments. Representative Barrows moved that it be placed upon its passage. Agreed.

Senate Committee Substitute to **HB 47** is as follows:

AN ACT relating to telephone solicitation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.46951 is amended to read as follows:

As used in KRS 367.46951 to 367.46999 ***and Section 8 of this Act***, unless the context otherwise requires:

(1) "Telephone solicitation" means:

(a) A ***live or recorded communication sent by a*** telephone~~[call]~~ or message sent by a facsimile machine to a residential, mobile, or telephone paging device telephone number, including a call made by an automatic dialing or recorded message device, for the purpose of:

1. Soliciting a sale of consumer goods or services, offering an investment, business, or employment opportunity, or offering a consumer loan to the person called;

2. Obtaining information that will or may be used for the solicitation of a sale of consumer goods or services, the offering of an investment, business, or employment opportunity, or the offering of a consumer loan to the person called;

3. Offering the person called a prize, gift, or anything else of value, if payment of money or other consideration is required in order to receive the prize or gift, including the purchase of other merchandise or services or the payment of any processing fees, delivery charges, shipping and handling fees, or other fees or charges; or

4. Offering the person called a prize, gift, or other incentive to attend a sales presentation for consumer goods or services, an investment or business opportunity, or a consumer loan; or

(b) A ***live or recorded communication sent***~~[solicitation or attempted solicitation which is made]~~ by telephone***, facsimile machine, mobile telephone, or telephone paging device*** in response to inquiries generated by unrequested notifications sent by the merchant to persons who have not previously purchased goods or services from the merchant or telemarketer or who have not previously requested credit from the merchant, to a prospective purchaser if the merchant or telemarketer represents or implies to the recipient of the notification that any of the following applies:

1. That the recipient has in any manner been specially selected to receive the notification or the offer contained in the notification;

2. That the recipient will receive a prize or gift if the recipient calls the merchant or telemarketer; or

3. That if the recipient buys one (1) or more items from the merchant or telemarketer, the recipient will also receive additional or other items of the same or a different type at no additional cost or for less than the regular price of the items;

(2) "Telephone solicitation" does not mean the following:

(a) A telephone call made in response to an express request of a person called, unless the request was made during a prior telephone solicitation;

(b) A telephone call made ***to the debtor or a party to the contract***~~[primarily]~~ in connection with the payment or performance of an existing debt or contract, the payment or performance of which has not been completed at the time of the call;

(c) A telephone call to any person with whom the telemarketer or merchant has a prior or existing business relationship, including but not limited to the solicitation of contracts for the maintenance or repair of items previously purchased from the person making the solicitation or on whose behalf the solicitation is made;

(d) A telephone call made by~~[any of]~~ the following:

1. A ***merchant or telemarketer located in Kentucky to a location outside of the Commonwealth of***

Kentucky;

2. A telephone call made by one (1) merchant to another;

~~[college or university accredited by a national or regional accrediting organization;~~

~~2. An organization exempt from taxation under Section 501(c)(3) or Section 501(c)(6) of the Internal Revenue Code;~~

~~3. A school, or a person on behalf of a school, regulated by the Kentucky Department of Education;~~

~~4. A real estate broker or sales associate properly licensed under the provisions of KRS Chapter 324;~~

~~5. A broker-dealer, agent, or investment adviser properly registered under the provisions of KRS Chapter 292;~~

~~6. An insurance agent, solicitor, or consultant properly licensed under the provisions of Subtitle 9 of KRS Chapter 304;~~

~~7. An employment agency that has obtained a current permit from the Cabinet for Workforce Development under the provisions of KRS Chapter 340;~~

~~8. A person soliciting the sale of a subscription to a newspaper, magazine, or periodical of general circulation, or a cable television service;~~

~~9. A merchant or telemarketer or the merchant's or telemarketer's affiliate or authorized agent, when the merchant or telemarketer is regulated by the Public Service Commission;~~

~~10. A merchant or telemarketer soliciting the sale of food costing less than one hundred dollars ($100) to each address;~~

~~11. A person who periodically issues and delivers catalogs to potential purchasers if the catalog includes a written description or illustration and the sales price of each item offered for sale, includes at least twenty-four (24) full pages of written material or illustrations, is distributed in more than one (1) state, and has an annual circulation of not less than two hundred fifty thousand (250,000) customers;~~

~~12. Any corporation, partnership, or individual whose business or activities are regulated by the Commonwealth of Kentucky, Department for Financial Institutions;~~

~~13. A merchant or telemarketer or the merchant's or telemarketer's affiliate or authorized agent when the merchant or telemarketer is subject to the control or licensure regulations of the Federal Communications Commission;~~

~~14. A book, video, or record club or contractual plan or arrangement in which the merchant or telemarketer provides the consumer with a form which the consumer may use to instruct the merchant or telemarketer not to ship the offered merchandise, or which is regulated by federal regulation concerning the use of negative option plans by sellers in commerce, or which otherwise provides for the sale of books, records, or videos. Examples of the latter plan include continuity plans, subscription arrangements, standing order arrangements, supplements, and series arrangements under which the seller periodically ships merchandise to a consumer who has consented in advance to receive the merchandise on a periodic basis;~~

~~15. A merchant or telemarketer who: solicits without intent to complete or obtain provisional acceptance of a sale during the telephone solicitation; does not make the major sales presentation during the solicitation but arranges for the major presentation to be made at a later, face-to-face meeting between the sales person and the purchaser; and does not go or cause another to collect payment for the purchase or deliver any item purchased to the prospective purchaser directly following the telephone solicitation;~~

~~16. Any telephone marketing service company which provides telemarketing sales services under contract to merchants and has been operating continuously for at least five (5) years under the same business name and seventy-five percent (75%) of whose services are performed for merchants exempted under KRS 367.46951 to 367.46999, if the company files an annual certification with the Office of the Attorney General on a form prescribed by the Attorney General. The certification shall include the company's basis for claiming the exemption and shall indicate the company's agreement to comply with the provisions of KRS 367.46951 to 367.46999, if applicable;~~

~~17. A telephone call made by a merchant or telemarketer located in Kentucky to a location outside the Commonwealth of Kentucky;~~

~~18. A merchant or his employee if the merchant has operated for at least two (2) years, under the same name as that used in connection with its telemarketing operations, a retail establishment in Kentucky where consumer goods are displayed and offered for sale on a continuing basis if a majority of the merchant's business involves the buyers obtaining services or products at the merchant's retail establishment; or~~

~~19. A merchant or telemarketer or the merchant's or telemarketer's affiliate or authorized agent, where the merchant or telemarketer is a publicly traded corporation;~~

~~Except for paragraph (d)16. of this subsection, the exemptions provided under this subsection shall apply only to a merchant or telemarketer or the merchant's or telemarketer's affiliate or authorized agent engaging in a telephone~~

~~solicitation on the merchant's or telemarketer's behalf;~~]

(3) "Consumer goods or services" means goods, services, or interests in real property used by natural persons primarily for personal, family, or household purposes;

(4) "Consumer loan" means any extension of credit, including credit cards and other forms of revolving credit, to a natural person primarily for the purposes of purchasing consumer goods or services or for paying existing personal, family, or household debts;

(5) "Consumer" means a natural person who receives a telephone solicitation;

(6) "Legal name of the merchant" means the real name of the merchant, as defined in KRS 365.015(1), or the assumed name of the merchant for which all proper certificates have been filed pursuant to KRS 365.015;

(7) "Merchant" means the individual or business entity offering the consumer goods or services, an investment, business, or employment opportunity, or a consumer loan;

(8) "Caller" or "sales person" means the individual making the call or operating the automatic dialing or recorded message device and causing the call to be made;

(9) "Division" means the Consumer Protection Division of the Office of the Attorney General;

(10) "Automated calling equipment" means any device or combination of devices used to select or dial telephone numbers and to deliver recorded messages to those numbers without the use of a live operator;[~~ and~~]

(11) "Telemarketer" means any person who under contract with a merchant or in connection with a telephone solicitation initiates or receives telephone calls to or from a consumer of goods and services. A telemarketer includes, but is not limited to, any such person that is an owner, operator, officer, director, or partner to the management activities of a business***;***[~~.~~]

(12) "Publicly-traded corporation" means an issuer or subsidiary of an issuer that has a class of securities which is:

(a) Subject to Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. sec. 78l) and which is registered or exempt from registration under paragraph (A), (B), (C), (E), (F), (G), or (H) of subsection (g)(2) of that section;

(b) Listed on the New York Stock Exchange, the American Stock Exchange, or the NASDAQ National Market System; or

(c) A reported security within the meaning of subparagraph (4) of Regulation Section 240.11Aa3-1.(a) under the Securities Exchange Act of 1934. A subsidiary of an issuer that qualifies for exemption under this paragraph shall not itself be exempt unless at least sixty percent (60%) of the voting power of its shares is owned by the qualifying issuer***;***

(13) "Telemarketing company" means a company whose primary business is to engage in telephone solicitation***; and***

(14) "Zero call" list means a list containing the names of the individuals that indicate their preference not to receive telephone solicitations.

Section 2. KRS 367.46955 is amended to read as follows:

It is a prohibited telephone solicitation act or practice and a violation of KRS 367.46951 to 367.46999 for any ***person making a telephone solicitation***[~~telemarketing company~~] to engage in the following conduct:

(1) Advertising or representing that registration as a telemarketer equals an endorsement or approval by any government or governmental agency;

(2) Requesting a fee in advance to remove derogatory information from or improve a person's credit history or credit record;

(3) Requesting or receiving a payment in advance from a person to recover or otherwise aid in the return of money or any other item lost by the consumer in a prior telephone solicitation transaction;

(4) Requesting or receiving payment of any fee or consideration in advance of obtaining a loan or other extension of credit when the telemarketing company has guaranteed or represented a high likelihood of success in obtaining or arranging a loan or other extension of credit for a person;

(5) Obtaining or submitting for payment a check, draft, or other form of negotiable paper drawn on a person's checking, savings, or bond or other account without the consumer's express written authorization***, or charging a credit card account or making electronic transfer of funds except in conformity with KRS 367.46953***;

(6) Procuring the services of any professional delivery, courier, or other pickup service to obtain immediate receipt or possession of a consumer's payment, unless the goods are delivered with the opportunity to inspect before any payment is collected;

(7) Assisting, supporting, or providing substantial assistance to any telemarketer when the telemarketing company knew or should have known that the telemarketer was engaged in any act or practice prohibited under this section;

(8) Making a telephone solicitation to anyone under eighteen (18) years of age. When making a telephone solicitation the telemarketer shall inquire as to whether the person is eighteen (18) years of age or older and the answer shall be presumed to be correct;

(9) Utilizing any method to block or otherwise circumvent the use of a caller identification service when placing an

unsolicited telephone solicitation call;

(10) Directing or permitting employees to use a fictitious name or not to use their name while making a telephone solicitation;

(11) Threatening, intimidating, or using profane or obscene language;

(12) Causing the telephone to ring more than thirty (30) seconds in an intended telephone solicitation;

(13) Engaging any person repeatedly or continuously with behavior a reasonable person would deem to be annoying, abusive, or harassing;

(14) Initiating a telephone solicitation call to a person, when that person has stated previously that he or she does not wish to receive solicitation calls from that seller;

(15) ***(a)*** Making or causing to be made an unsolicited telephone solicitation call if the number for that telephone appears in the current publication of the ***zero call***[~~"no telephone solicitation calls"~~] list maintained by the Office of the Attorney General, Division of Consumer Protection. Any holder of a telephone number may notify the division and be placed on a ***zero call***[~~"no telephone solicitation calls"~~] list indicating the wish not to receive unsolicited telephone solicitation calls by notification to the division. The names of persons requesting to be on the ***zero call***[~~"no telephone solicitation calls"~~] list shall remain on the list until the person rescinds his or her name from the list.

(b) The ***zero call*** list shall be ***updated,*** published***, and distributed on a*** quarterly ***basis*** in ***electronic and*** hard copy and may be made available in other formats at the discretion of the division. After the publication of the list each ***quarter***[~~month~~] each telemarketing company***, telemarketer, and merchant*** shall be deemed to be on notice not to solicit any person whose name appears on the list[~~. The division shall charge a fee calculated to defray costs of the no telephone solicitation calls program to telemarketing companies for the provision of the list. Funds collected shall be deposited into the division's trust and agency account. The list shall be made available to requesters either on a statewide or county by county basis~~];[~~ or~~]

(16) ***Making telephone solicitations***[~~Engaging in telemarketing~~] to a person's residence at any time other than between 10 a.m. - 9 p.m. local time, at the called person's location***;***

(17) Selling or making available for economic gain any information revealed during a telephone solicitation without the express written consent of the consumer;

(18) Making a telephone solicitation to any residential telephone using an artificial or prerecorded voice to deliver a message, unless the call is initiated for emergency purposes by schools regulated by the Kentucky Department of Education or the call is made with the prior express consent of the called party; or

(19) Engaging in any unfair, false, misleading, or deceptive practice or act as part of a telephone solicitation.

Section 3. KRS 367.46971 is amended to read as follows:

(1) At least ten (10) days prior to doing business in this state, a ***telemarketing company***[~~merchant~~] shall file with the division the information described below and pay a filing fee of three hundred dollars ($300). A ***telemarketing company***[~~merchant~~] shall be deemed to do business in this state if the ***telemarketing company***[~~merchant~~] solicits prospective purchasers from locations in this state or solicits prospective purchasers who are located in this state. The information required by this section shall be submitted on a form provided by the Attorney General and shall be verified by a declaration signed by each principal of the ***telemarketing company***[~~merchant~~], under penalty of perjury. The declaration shall specify the date and location of signing. Information submitted pursuant to KRS 367.46951 to 367.46999 shall be clearly identified and appended to the filing.

(2) Registration of a ***telemarketing company***[~~merchant~~] shall be valid for one (1) year from the effective date thereof and may be renewed annually by making the filing required by this section and paying a filing fee of fifty dollars ($50).

(3) If, prior to expiration of a ***telemarketing company's***[~~merchant's~~] annual registration, there is a material change in the information required by KRS 367.46951 to 367.46999, the ***telemarketing company***[~~merchant~~] shall, within ten (10) days, file an addendum updating the information with the division. However, changes in salespersons soliciting on behalf of a ***telemarketing company***[~~merchant~~] shall be updated by filing addenda, if necessary, in quarterly intervals computed from the effective date of registration. The addendum shall include the required information for all salespersons currently soliciting or having solicited on behalf of the ***telemarketing company***[~~merchant~~] at any time during the period between the filing of the registration, or the last addendum, and the current addendum, and shall include information on salespersons no longer soliciting for the ***telemarketing company***[~~merchant~~] as of the date of the filing of the current addendum.

(4) Upon receiving the filing and the filing fee pursuant to this section, the division shall send the ***telemarketing company***[~~merchant~~] a written confirmation of receipt of the filing. If the ***telemarketing company***[~~merchant~~] has more than one (1) business location, the written confirmation shall be sent to the ***telemarketing company's***[~~merchant's~~] principal business location as identified in the ***telemarketing company's***[~~merchant's~~] filing in sufficient numbers so that the ***telemarketing company***[~~merchant~~] can meet the requirements of this subsection. Within ten (10) days of receipt of the confirmation, the ***telemarketing company***[~~merchant~~] shall post in a conspicuous place at each of the ***telemarketing company's***[~~merchant's~~] business locations within this state a copy of the entire registration statement which has been filed with the division. Until confirmation of receipt of filing is received and posted, the ***telemarketing company***[~~merchant~~]

shall post in a conspicuous place at each of the ***telemarketing company's***[~~merchant's~~] business locations within this state a copy of the first page of the registration form sent to the department. The ***telemarketing company***[~~merchant~~] shall also post in close proximity to either the confirmation of receipt of filing or the first page of the submitted registration form the name of the individual in charge of each location from which the ***telemarketing company***[~~merchant~~] does business in this state.

Section 4. KRS 367.46981 is amended to read as follows:

(1) Every ***telemarketing company***[~~merchant~~] shall maintain a bond issued by a surety company admitted to do business in this state. The bond shall be in the amount of fifty thousand dollars ($50,000) in favor of the Attorney General for the benefit of any person suffering injury or loss by reason of any violation of KRS 367.46951 to 367.46999 to be paid under the terms of any order of a court of competent jurisdiction obtained by the Attorney General, as a result of any violation of KRS 367.46951 to 367.46999. A copy of the bond shall be filed with the division.

(2) At least ten (10) days prior to the inception of any promotion offering a premium with an actual market value or advertised value of five hundred dollars ($500) or more, the ***telemarketing company***[~~merchant~~] shall notify the Attorney General in writing of the details of the promotion, describing the premium and its current market value, the value at which it is advertised or held out to the customer, the date the premium shall be awarded, and the conditions under which the award shall be made. The ***telemarketing company***[~~merchant~~] shall maintain an additional bond for the greater of the current total market value or the advertised value of the premiums held out or advertised to be available to a purchaser or recipient. A copy of the bond shall be filed with the division. The bond, or a portion of it necessary to cover the cost of the award, shall be forfeited if the premium is not awarded to a bona fide customer within thirty (30) days of the date disclosed as the time of award or the time otherwise required by law. The proceeds of the bond shall be paid to any person suffering injury or loss by reason of any violation of KRS 367.46951 to 367.46999 or shall be paid pursuant to the terms of any order of a court of competent jurisdiction obtained by the Attorney General, Commonwealth's attorney, or county attorney as a result of any violation of KRS 367.46951 to 367.46999. The bond shall be maintained until the ***telemarketing company***[~~merchant~~] files with the Attorney General proof that the premium was awarded.

SECTION 5. A NEW SECTION OF KRS 367.46951 TO 367.46999 IS CREATED TO READ AS FOLLOWS:

(1) Any person may apply to the Office of the Attorney General, Division of Consumer Protection, to be listed on the zero call list. The Office of the Attorney General shall provide automated telephone dial-in registration and shall collect only the home phone number from the applicant deemed to be required to administer the zero call list. The Office of the Attorney General shall promulgate administrative regulations to:

(a) Provide for automatic telephone number referral from the incumbent local exchange carrier or the competitive local exchange carrier to the Office of the Attorney General for the purpose of updating the zero call list to reflect an applicant's change of address or an applicant's termination of telephone service; and

(b) Develop, modify, or administer the zero call list in such a way as to permit interface with any national registry established by the Federal Trade Commission or the Federal Communications Commission for the purpose of including in Kentucky's zero call list that part of the national database that relates to the Commonwealth or release to the national registry applicants on the zero call list that indicate a preference to be listed on a national registry.

(2) The Attorney General shall place the information provided by the applicant on the list. The Attorney General may update the information on the list as provided in subsection (1) of this section, but shall not remove the information unless requested to do so in writing by the applicant, or upon receiving notice that the given telephone number is no longer held in the name of the applicant.

(3) Persons whose names appear on the zero call list shall not receive telephone solicitations except in accordance with the provisions of KRS 367.46951 to 367.46999.

(4) Any person that applies to the Office of the Attorney General to be placed on the zero call list shall be informed about how to add his or her name to company-specific and industry-wide no solicitation call lists, including those lists provided by the Direct Marketing Association (DMA) and the Telephone Preference Service (TPS).

(5) Information contained in a database established for the purpose of administering the zero call list shall be used only for the purpose of implementing the zero call program in conformance with KRS 367.46951 to 367.46999.

(6) The zero call list shall be available at no cost to any merchant or telemarketing company that is required to consult the list. In addition to the formats described in subsection (15) of Section 2 of this Act, the list shall be made available in a format for electronic download from the Internet Web page of the Office of the Attorney General. The Office of the Attorney General shall develop procedures to assure that:

(a) The merchant or telemarketing company requesting the list shall maintain the confidentiality of the information on the list; and

(b) The merchant or telemarketing company shall use the list only for the purpose of preventing telephone solicitation calls to persons whose names appear on the list.

SECTION 6. A NEW SECTION OF KRS CHAPTER 367.46951 TO 367.46999 IS CREATED TO READ AS FOLLOWS:

(1) Any claim or action alleging the making of a call to a person on the zero call list in violation of Section 2 of this Act shall be in writing and verified by the claimant.

(2) In any action or claim alleging the making of a call to a person on the zero call list, it shall be a defense that the defendant obtains the current zero call list in a timely manner and makes reasonable efforts to avoid calling persons whose names appear on the list.

(3) It shall be a defense in any action or proceeding brought under KRS 367.46951 to 367.46999 that the defendant has established and implemented, with due care, reasonable practices and procedures to prevent telephone solicitations in violation of KRS 367.46951 to 367.46999.

Section 7. KRS 367.46967 is amended to read as follows:

(1) A violation by a *telemarketing company, telemarketer,* caller*,* or merchant of KRS 367.46951 to 367.46999 shall constitute an unfair, false, misleading, or deceptive act or practice in the conduct of trade or commerce in violation of KRS 367.170.

(2) All of the remedies, powers, and duties provided for the Attorney General by KRS 367.190 to 367.300 and the penalties provided in KRS 367.990, relating to acts and practices violating KRS 367.170 shall apply with equal force and effect to acts and practices declared unlawful by KRS 367.46951 to 367.46999.

(3) Nothing in KRS 367.46951 to 367.46999 shall be construed to limit or restrict the exercise of powers or the performance of the duties of the Attorney General authorized under any other provision of law.

Section 8. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act, or practice declared unlawful by KRS 367.170, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation, or where the defendant's conduct is directed at a person aged sixty (60) or older, a civil penalty of not more than ten thousand dollars ($10,000) per violation, if the trier of fact determines that the defendant knew or should have known that the person aged sixty (60) or older is substantially more vulnerable than other members of the public.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys, or falsifies documentary material is guilty of a Class A misdemeanor.

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged shall be subject to a fine as provided in subsection (3) of this section.

(5) The Circuit Court of any county in which any plan described in KRS 367.350 is proposed, operated, or promoted may grant an injunction without bond, upon complaint filed by the Attorney General to enjoin the further operation thereof, and the Attorney General may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be guilty of a violation. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be guilty of a Class A misdemeanor.

(8) In addition to the penalties contained in this section, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) Any person who shall willfully and intentionally violate any provision of KRS 367.976 to 367.985 shall be guilty of a Class B misdemeanor.

(10) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties;

(b) The Attorney General may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have willfully committed an act declared unlawful by KRS 367.667 a penalty of not more than two thousand dollars ($2,000) per violation; and

(c) Any person who knowingly violates any provision of KRS 367.652, 367.653, 367.656, 367.657, 367.658, 367.666, or 367.668 or who knowingly gives false or incorrect information to the Attorney General in filing statements or reports required by KRS 367.650 to 367.670 shall be guilty of a Class D felony.

(11) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the Attorney General.

(12) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the Attorney General.

(13) Any person who violates KRS 367.805, 367.809(2), 367.811, 367.813(1), or 367.816 shall be guilty of a Class C felony.

(14) Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(15) A violation of KRS 367.474 to 367.478 and KRS 367.482 is a Class C felony. Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and KRS 367.482.

(16) Any person who violates KRS 367.310 shall be guilty of a violation.

(17) Any person, partnership, or corporation who violates the provisions of KRS 367.850 shall be guilty of a Class A misdemeanor.

(18) Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back, or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be guilty of a Class D felony.

(19) Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.

(20) Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

(21) (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony; and

(b) The appropriate Commonwealth's attorney shall have authority to prosecute felony violations of KRS 367.832.

(22) (a) Any person who violates the provisions of KRS 367.855 or 367.857 shall be guilty of a violation. Either the Attorney General or the appropriate county health department may prosecute violators of KRS 367.855 or 367.857.

(b) The provisions of this subsection shall not apply to any retail establishment if the wholesaler, distributor, or processor fails to comply with the provisions of KRS 367.857.

(23) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant shall be guilty of a Class D felony when that telemarketing company, telemarketer, caller, or merchant three (3) times in one (1) calendar year violates subsection (15)(a) of Section 2 of this Act by making or causing to be made an unsolicited telephone solicitation call to a telephone number that appears in the current publication of the zero call list maintained by the Office of the Attorney General, Division of Consumer Protection.

(24) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant shall be guilty of a Class A misdemeanor when that telemarketing company, telemarketer, caller, or merchant uses a zero call list identified in subsection (15) of Section 2 of this Act for any purpose other than complying with the provisions of KRS 367.46951 to 367.46999.

(25) (a) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant that violates KRS 367.46951 to 367.46999 shall be assessed a civil penalty of not more than five thousand dollars ($5,000) for each offense.

(b) The Attorney General, or any person authorized to act in his or her behalf, shall initiate enforcement of a civil penalty imposed under paragraph (a) of this subsection.

(c) Any civil penalty imposed under paragraph (a) of this subsection may be compromised by the Attorney General or his or her designated representative. In determining the amount of the penalty or the amount agreed upon in compromise, the Attorney General, or his or her designated representative, shall consider the appropriateness of the penalty to the financial resources of the telemarketing company, telemarketer, caller, or merchant charged, the gravity of the violation, the number of times the telemarketing company, telemarketer, caller, or merchant charged has been cited, and the good faith of the telemarketing company, telemarketer, caller, or merchant charged in attempting to achieve compliance, after notification of the violation.

(d) If a civil penalty is imposed under this subsection, a citation shall be issued which describes the violation which has occurred and states the penalty for the violation. If, within fifteen (15) working days from the receipt of the citation, the affected party fails to pay the penalty imposed, the Attorney General, or any person authorized to act in his or her behalf, shall initiate a civil action to collect the penalty. The civil action shall be taken in the court which has jurisdiction over the location in which the violation occurred.

Section 9. KRS 454.210 is amended to read as follows:

(1) As used in this section, "person" includes an individual, his executor, administrator, or other personal representative, or a

corporation, partnership, association, or any other legal or commercial entity, who is a nonresident of this Commonwealth.

(2) (a) A court may exercise personal jurisdiction over a person who acts directly or by an agent, as to a claim arising from the person's:

1. Transacting any business in this Commonwealth;

2. Contracting to supply services or goods in this Commonwealth;

3. Causing tortious injury by an act or omission in this Commonwealth;

4. Causing tortious injury in this Commonwealth by an act or omission outside this Commonwealth if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth, provided that the tortious injury occurring in this Commonwealth arises out of the doing or soliciting of business or a persistent course of conduct or derivation of substantial revenue within the Commonwealth;

5. Causing injury in this Commonwealth to any person by breach of warranty expressly or impliedly made in the sale of goods outside this Commonwealth when the seller knew such person would use, consume, or be affected by, the goods in this Commonwealth, if he also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth;

6. Having an interest in, using, or possessing real property in this Commonwealth, providing the claim arises from the interest in, use of, or possession of the real property, provided, however, that such in personam jurisdiction shall not be imposed on a nonresident who did not himself voluntarily institute the relationship, and did not knowingly perform, or fail to perform, the act or acts upon which jurisdiction is predicated;

7. Contracting to insure any person, property, or risk located within this Commonwealth at the time of contracting***;***~~[.]~~

8. Committing sexual intercourse in this state which intercourse causes the birth of a child when:

   a. The father or mother or both are domiciled in this state;

   b. There is a repeated pattern of intercourse between the father and mother in this state; or

   c. Said intercourse is a tort or a crime in this state; ***or***

9. Making a telephone solicitation, as defined in Section 1 of this Act, into the Commonwealth.

(b) When jurisdiction over a person is based solely upon this section, only a claim arising from acts enumerated in this section may be asserted against him.

(3) (a) When personal jurisdiction is authorized by this section, service of process may be made on such person, or any agent of such person, in any county in this Commonwealth, where he may be found, or on the Secretary of State who, for this purpose, shall be deemed to be the statutory agent of such person;

(b) The clerk of the court in which the action is brought shall issue a summons against the defendant named in the complaint. The clerk shall execute the summons by sending by certified mail two (2) true copies to the Secretary of State and shall also mail with the summons two (2) attested copies of plaintiff's complaint. The Secretary of State shall, within seven (7) days of receipt thereof in his office, mail a copy of the summons and complaint to the defendant at the address given in the complaint. The letter shall be posted by certified mail, return receipt requested, and shall bear the return address of the Secretary of State. The clerk shall make the usual return to the court, and in addition the Secretary of State shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the Secretary of State and the action shall proceed as provided in the Rules of Civil Procedure; and

(c) The clerk mailing the summons to the Secretary of State shall mail to him, at the same time, a fee of ten dollars ($10), which shall be taxed as costs in the action.

(4) When the exercise of personal jurisdiction is authorized by this section, any action or suit may be brought in the county wherein the plaintiff resides or where the cause of action or any part thereof arose.

(5) A court of this Commonwealth may exercise jurisdiction on any other basis authorized in the Kentucky Revised Statutes or by the Rules of Civil Procedure, notwithstanding this section.

Section 10. The Attorney General shall study the implementation and effectiveness of a zero call list and shall report to the legislative committee with jurisdiction over telephone solicitation and the Legislative Research Commission by October 15, 2004. The Attorney General's report may contain recommendations for legislative action in the next odd-numbered year session of the General Assembly.

Representative Buckingham moved that the House concur in the Senate Committee Substitute to **HB 47**. Agreed.

Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 47** is as follows:

On page 9, line 18, by placing a closing bracket after "~~account.~~" and by removing the strikethrough from "~~The list shall be made available to requesters either on a~~"; and

On page 9, line 19, by removing the strikethrough from "~~statewide or a county by county basis~~"; and

On page 9, line 19, by removing the closing bracket after "basis"; and

On page 14, line 8, after "***General.***" by inserting "***The Attorney General shall make the electronic list available in a format that is searchable by area code and by local exchange. The electronic format shall be arranged with the last four digits of the telephone numbers in ascending order. The electronic list shall also be searchable by individual number and shall be downloadable in at least five (5) of the most common commercially available data management program formats. Hard copies of the zero call list shall be arranged by area code and local exchange with the last four digits in ascending order.***".

Representative Buckingham moved that the House concur in Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 47**. Agreed.

Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HB 47** is as follows:

On page 14, between lines 14 and 15, by inserting the following:

"***(7) The Kentucky Public Service Commission shall produce a consumer education pamphlet that:***

(a) Describes the changes made in the year 2002 to Kentucky's telemarketing laws including the creation of the zero call list.

(b) Describes the consumer's rights and responsibilities regarding the receipt of telephone solicitation.

(c) Explains how consumers can apply to be placed on the zero call list and on any federal do not call registry established by the Federal Communications Commission or the Federal Trade Commission.

(d) Explains how to apply to be placed on company-specific and industrywide no solicitation calls list, including those lists provided by the Direct Marketing Association (DMA) and the Telephone Preference Service (TPS).

(e) Describes how a consumer can file a complaint if the consumer receives calls after being placed on the zero call list.

(8) At least once a year, the Public Service Commission shall require that the pamphlet be included in the billing inserts of the telephone companies under the Public Service Commission's jurisdiction."

Representative Buckingham moved that the House concur in Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HB 47**. Agreed.

Senate Floor Amendment No. 3 to the Senate Committee Substitute to **HB 47** is as follows:

On page 7, line 13, after the first occurrence of "***the***" by deleting "***names***" and inserting "***telephone numbers***" in lieu thereof; and

On page 9, line 7, after "The" by inserting "***telephone numbers***" and by bracketing and striking through "names"; and

On page 9, line 2, before "number" by inserting "***residential***"; and

On page 9, line 5, before "telephone" by inserting "***residential***"; and

On page 9, line 14, after "whose" by inserting "***telephone number***" and by bracketing and striking through "name"; and

On page 12, line 25, after "***to***" by deleting "***be***" and inserting "***have his or her residential telephone number***" in lieu thereof; and

On page 13, line 15, by deleting "***information***" and inserting "***residential telephone number***" in lieu thereof; and

On page 13, line 20, by deleting "***names***" and inserting "***telephone numbers***" in lieu thereof; and

On page 13, line 24, after "***name***" and inserting "***or telephone number***"; and

On page 14, line 13, by deleting "***names***" and inserting "***telephone numbers***" in lieu thereof; and

On page 14, line 23, by deleting "***names***" and inserting "***telephone numbers***" in lieu thereof; and

On page 18, line 26, after "***year***" by inserting "***knowingly and willfully***".

Representative Buckingham moved that the House concur in Senate Floor Amendment No. 3 to the Senate Committee Substitute to **HB 47**. Agreed.

Representative Buckingham moved that **HB 47**, by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 4, 2002, roll call on **HB 47** - Appendix.)

HB 47, by way of Committee Substitute as amended by the Senate, was passed and the title agreed to.

Representative Buckingham moved that the vote by which **HB 47**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 730, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Barrows moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of the Committee Substitute to **HB 730**. Agreed.

Representative Gray moved that **HB 730**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 4, 2002, roll call on **HB 730** - Appendix.)

HB 730, by way of Committee Substitute, was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 730**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 622 taken from the Orders of the Day and ordered read at length for the third time. Representative Barrows moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HB 622** be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 4, 2002, roll call on **HB 622** - Appendix.)

HB 622 was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 622** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 634 taken from the Orders of the Day and ordered read at length for the third time. Representative Barrows moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Treesh moved that **HB 634** be passed.

On the roll call the vote was: **Yeas 87, Nays 4**. (See March 4, 2002, roll call on **HB 634** - Appendix.)

HB 634 was passed and the title agreed to.

Representative Treesh moved that the vote by which **HB 634** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 615 taken from the Orders of the Day and ordered read at length for the third time. Representative Barrows moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Denham moved that **HB 615** be passed.

On the roll call the vote was: **Yeas 89, Nays 4**. (See March 4, 2002, roll call on **HB 615** - Appendix.)

HB 615 was passed and the title agreed to.

Representative Denham moved that the vote by which **HB 615** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 334 taken from the Orders of the Day and ordered read at length for the third time. Representative Barrows moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Feeley moved that **HB 334** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 4, 2002, roll call on **HB 334** - Appendix.)

HB 334 was passed and the title agreed to.

Representative Feeley moved that the vote by which **HB 334** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Barrows moved to waive the posting requirement on the following: **HB 662, HB 184, HB 809, HB 798, HB 793, HB 792, HB 829, HB 827, HB 804, HB 807,** and **HB 808**. Agreed.

Representative Barrows moved that **HB 708** be reassigned to the Committee on Agriculture and Small Business. Agreed

Representative Barrows moved that the rules be suspended for Introductions of Bills and Report of Committees. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 840, by Representative Stein: AN ACT relating to the Kentucky Long-Term Care Ombudsman Program.

HB 841, by Representative Pullin: AN ACT relating to the regulation of small businesses.

HB 842, by Representatives Palumbo and Weaver: AN ACT relating to the Kentucky Commission on Edler Abuse.

HB 843, by Representative Burch: AN ACT relating to organ donation.

HB 844, by Representative Thompson: AN ACT relating to crimes against elected public officers.

HB 845, by Representative Comer: AN ACT relating to unemployment insurance.

HB 846, by Representative Thomas: AN ACT relating to health insurance for public employees.

HB 847, by Representatives Thomas and McKee: AN ACT relating to retailers of farm implements.

HB 848, by Representative Feeley: AN ACT relating to school districts with student population growth.

HB 849, by Representative A. Arnold: AN ACT relating to cosmetology fees.

HB 850, by Representative A. Arnold: AN ACT relating to salvage titles.

HB 851, by Representative Baugh: AN ACT relating to boiler and pressure vessel safety.

HB 852, by Representative Marzian: AN ACT relating to police merit boards in a consolidated local government.

HB 853, by Representative Crall: AN ACT relating to health insurance.

HB 854, by Representative Branham: AN ACT relating to sewerage collection and treatment.

HB 855, by Representative Haydon: AN ACT relating to the grape and wine industry.

HB 856, by Representative Riner: AN ACT relating to Kentucky youth scholars.

HB 857, by Representative Riner: AN ACT designating "Deo gratiam habeamus" as the Commonwealth's official Latin motto.

HB 858, by Representative Ballard: AN ACT relating to employment of persons by employers that provide services to the elderly.

HB 859, by Representative Hoffman: AN ACT relating to crediting of city occupational license fees.

HB 860, by Representative Webb: AN ACT relating to cellular antenna tower construction.

HB 861, by Representatives Kerr and Simpson: AN ACT relating to crimes and punishments.

HB 862, by Representative J. Lee: AN ACT relating to the health care provider tax.

HB 863, by Representative Kerr: AN ACT relating to crimes and punishments.

HB 864, by Representatives Moberly and Barrows: AN ACT relating to revenue and taxation.

HB 865, by Representative Moberly: AN ACT relating to revenue and taxation, making an appropriations, and declaring an emergency.

HB 866, by Representative Weaver: AN ACT relating to registration of contractors.

HB 867, by Representative Weaver: AN ACT relating to protecting the public safety through improved methods of issuing secure and tamper-proof operator's licenses and permits.

HB 868, by Representative Coleman: AN ACT relating to civil actions.

HB 869, by Representative Barrows: AN ACT relating to school districts.

HB 870, by Representative C. Belcher: AN ACT relating to the provision of the warnings required by Miranda v. Arizona to non-English speakers.

HB 871, by Representative Webb: AN ACT relating to proposing to create a new section of the Constitution of Kentucky relating to hunting and fishing.

HB 872, by Representatives Jenkins, L. Clark, Callahan, and De. Butler: AN ACT relating to multi-jurisdictional simulcasting and interstate wagering totalizator hubs.

HB 873, by Representative Riner: AN ACT relating to eligibility of nonpublic high school graduates for inclusion in the Kentucky Educational Excellence Scholarship Program.

HB 874, by Representatives C. Belcher, Tapp and L. Clark: AN ACT relating to electrical workers.

HB 875, by Representative Baugh: AN ACT relating to mandated health insurance benefits.

HR 209, by Representative Palumbo: A RESOLUTION requesting the Kentucky Board of Medical Licensure to work with any other state government agency, private association, or any other entity or person to research malpractice insurance and make recommendations to the General Assembly.

HJR 210, by Representative Thomas: A JOINT RESOLUTION authorizing and directing Kentucky State University, in cooperation with the Kentucky Aquaculture Task Force and the Kentucky Department of Fish and Wildlife Resources to conduct and facilitate a series of statewide public meetings relating to the public support and regulation of reservoir ranching of paddlefish (zooplanktivore) on public waters, and making an appropriation therefor.

HR 211, by Representative Branham: A RESOLUTION renaming the road to Swampgut the "Larry 'Red Dog' Webster Highway."

HJR 212, by Representative Cherry: A JOINT RESOLUTION honoring the achievements of Ralph Smith of Livingston County.

HJR 214, by Representative Moberly: A JOINT RESOLUTION establishing the additional four year highway construction plan outlined in the Recommended FY 2001-2002 - FY 2007-2008 Six Year Road Plan presented to the 2002 General Assembly.

HJR 215, by Representative Fischer: A JOINT RESOLUTION urging teachers and administrators to schedule time at the beginning of each day for students to voluntarily recite the pledge of allegiance to the flag and to recite an excerpt from the Declaration of Independence and to include age-appropriate curriculum instruction to teach students enrolled in grades three through twelve the meaning of early American historical developments.

HR 216, by Representative Hoover: A RESOLUTION memorializing Diane Dutton Cooper.

HJR 217, by Representative Hoover: A JOINT RESOLUTION directing the State Auditor to audit the highway construction contingency account.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **HB 645, HB 763, HCR 149, HJR 189, HJR 191, HJR 205, SCR 76**

Local Government: **HCR 192, HB 729, HB 736, HB 739, HB 776, HB 779, HB 783, SB 100, SB 169**

Education: **HB 829, HB 827**

Banking and Insurance: **HB 757, HB 758**

Licensing and Occupations: **HB 768, HB 804, HB 807, HB 808**

Tourism Development and Energy: **SB 176**

Motions, Petitions and Communications (Continued)

Representative Hoover moved the adoption of the following **HR 216**:

HR 216, A RESOLUTION memorializing Diane Dutton Cooper.

WHEREAS, Diane Dutton Cooper, a native of Cleveland, Ohio, was a resident of Jamestown in Russell County, Kentucky; and

WHEREAS, Diane Dutton Cooper served the public good by acting as the Jamestown city administrator; and

WHEREAS, Diane Dutton Cooper was a faithful member of the Jamestown First Baptist Church; and

WHEREAS, Diane Dutton Cooper was the loving wife of Howard Kent Cooper and the committed mother of Sarah Cooper and John Dutton Cooper, and the devoted daughter of Bruce Howard Dutton, who preceded her in death, and of Mary Kopenhoefer; and

WHEREAS, Diane Dutton Cooper died on February 23, 2002;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives honors Diane Dutton Cooper for her public service to the citizens of Jamestown, and to the Commonwealth of Kentucky, as well as for her devotion to her family.

Section 2. That when the House of Representatives adjourns this day, that it does so in the memory of Diane Dutton Cooper.

Section 3. The clerk of the House of Representatives is directed to transmit a copy of this Resolution to Howard Kent Cooper, 465 Shelby Street, Jamestown, Kentucky 42629.

There being no objection **HR 216** was adopted.

Representative J. Arnold moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative J. Arnold moved that he be recorded as voting "yea" on **HB 481, HB 129, HB 415, HB 100, HB 537, HB 471, HB 590, HB 188,** and **HJR 25**. Agreed.

Representative Draud moved that **HB 21, HB 608,** and **HB 641** be withdrawn. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 6 to the Committee Substitute to **HB 602**, by Representative Smith:

On page 56, line 25, delete "***fifty***" and insert in lieu thereof "***twenty-five***", and delete "***(150%)***" and insert in lieu thereof "***(125%)***"; and

On page 56, line 26, delete "***fifty***", and insert in lieu thereof "***twenty-five***"; and

On page 56, line 27, delete "***(150%)***" and insert in lieu thereof "***(125%)***"; and

On page 104, line 19, delete "***fifty***" and insert in lieu thereof "***twenty-five***", and delete "***(150%)***" and insert in lieu thereof "***(125%)***"; and

On page 104, line 20, delete "***fifty***" and insert in lieu thereof "***twenty-five***"; and

On page 104, line 21, delete "***(150%)***" and insert in lieu thereof "***(125%)***".

Floor Amendment No. 7 to the Committee Substitute to **HB 602**, by Representative Smith:

On page 51, line 13, after "***Services***", insert "***other than health care***"; and

On page 101, line 5, after "***Services***", insert "***other than health care***".

Floor Amendment No. 1 to the Committee Substitute to **SB 2**, by Representative Crimm:

On page 13, line 24 after "(e)" by inserting the following:

> "***No later than November 30, 2002, study and make recommendations to the General Assembly regarding the implementation of an advance directive for mental health treatment;***

(f)".

Floor Amendment No. 3 to the Committee Substitute No. 2 to **HB 68**, by Representative Bruce:

On page 1, line 6, after the semicolon ";" bracket and strike through the word "or"; and

On page 1, line 8, after the word "more" and before the period "." insert the following:

"*; or*

(d) Pickup trucks having a gross vehicle weight of six thousand (6,000) pounds or more".

Floor Amendment No. 8 to the Committee Substitute to **HB 602**, by Representative Damron:

On page 12, line 20, after "city" insert "*,*", and bracket and strikethrough "or", and after "county" insert "*, or an agency*";

On page 18, line 2, bracket and strikethrough "and";

On page 18, line 4, before the opening bracket insert "*; and*"

On page 18, line 5 before the "." insert:

"*(30) "Project costs" mean the total private and public capital costs of a project*";

On page 19, line 11, after "project" bracket and strikethrough "begun on or after January 1, 2002"; and

On page 20, line 22, after "to" insert "*projects as defined in Section 3 of this Act*" and place an opening bracket before "manufacturing" and strike through "manufacturing"; and

On page 20, lines 22 and 23 delete "*and service or technology projects*"; and

On page 20, line 23, delete the opening bracket.

Floor Amendment No. 1 to the Committee Substitute to **HB 228**, by Representative Coleman:

On page 2, below line 23, to insert the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of carrying a concealed weapon in an airport sterile area when he or she intentionally carries a concealed deadly weapon, a dangerous instrument which is prohibited from being carried on an aircraft by a passenger pursuant to federal law, explosive, or incendiary device on or about his or her person when he or she:

(a) Is attempting to enter a sterile area;

(b) Has entered a sterile area;

(c) Is attempting to board an aircraft; or

(d) Has boarded an aircraft.

(2) A peace officer may carry a concealed weapon on or about his or her person in an airport sterile area when authorized to do so pursuant to KRS 527.020.

(3) Carrying a concealed weapon in an airport sterile area is a Class A misdemeanor unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used, or displayed, in which case it is a Class D felony.

(4) As used in this section the following terms have the following meaning:

(a) "Sterile area of an airport" means a portion of an airport specified in the airport security program that provides passengers access to boarding aircraft and to which the Transportation Security Administration controls access;

(b) "Dangerous instrument" has the same meaning as it does in KRS 500.080;

(c) "Deadly weapon" has the same meaning as it does in KRS 500.080;

(d) "Intentionally" has the same meaning as it does in KRS 501.020.

(5) The provisions of this section shall not apply to a person attempting to board, boarding, or on board a nonair carrier or airline aircraft or a government owned aircraft."

Floor Amendment No. 2 to the Committee Substitute to **HB 598**, by Representative Riggs:

On Page 8, after line 6, by inserting and underlining,

"*(9) Upon the approval of an application for the construction of a cellular antenna tower by a planning commission, the utility making the application shall notify the Public Service Commission within ten (10) working days of the*

approval. The notice to the Public Service Commission shall include a map showing the location of the construction site. If a utility fails to file notice of an approved uniform application with the Public Service Commission, the utility shall be prohibited from beginning construction on the cellular antenna tower until such notice has been made."; and

On Page 8, line 18, after "***($1,000)***", by inserting and underlining, "***which may be adjusted annually based on the consumer price index***".

Floor Amendment No. 1 to **HB 610**, by Representative Webb:

On page 1, line 3 after "imposed," insert "***which shall include only those persons eighteen (18) years of age or older at the time of the commission of the offense,***"; and

On page 5, after line 14 insert the following:

"Section 2. KRS 640.040 is amended to read as follows:

(1) No youthful offender who has been convicted of a capital offense who was under the age of ***eighteen (18)***[~~sixteen (16)~~] years at the time of the commission of the offense shall be sentenced to capital punishment. A youthful offender may be sentenced to capital punishment if he was ***eighteen (18)***[~~sixteen (16)~~] years of age or older at the time of the commission of the offense. A youthful offender convicted of a capital offense regardless of age may be sentenced to a term of imprisonment appropriate for one who has committed a Class A felony and may be sentenced to life imprisonment without benefit of parole for twenty-five (25) years.

(2) No youthful offender shall be subject to persistent felony offender sentencing under the provisions of KRS 532.080 for offenses committed before the age of eighteen (18) years.

(3) No youthful offender shall be subject to limitations on probation, parole or conditional discharge as provided for in KRS 533.060.

(4) Any youthful offender convicted of a misdemeanor or any felony offense which would exempt him from KRS 635.020(2), (3), (4), (5), (6), (7), or (8) shall be disposed of by the Circuit Court in accordance with the provisions of KRS 635.060."

Floor Amendment No. 1 to the Committee Substitute to **HB 553**, by Representative Feeley:

On page 1, line 6, by deleting "nine (9)" and inserting "ten (10)" in lieu thereof;

On page 1, line 15, after "appoint" by deleting "nine (9)" and inserting "ten (10)" in lieu thereof;

On page 1, line 18, after "Office" by inserting "and a representative from the Kentucky School Food Service Association";

On page 8, line 25, after "***or***" by deleting "***low-fat***";

On page 8, line 26, after "***.***" by inserting "***Each school is encouraged to offer low-fat dairy products for a la carte sale.***";

On page 9, line 10, after "***director***" by inserting "***or other individual***";

On page 9, line 13, after "***director***" by inserting "***or other individual***";

On page 9, line 15, after "***director***" by inserting "***or who is responsible for the management and oversight of the food service program in the district***";

On page 9, line 20, after "***director***" by inserting "***or appointed to be responsible for the management and oversight of the food service program in the district***";

On page 9, line 25, after "***(c)***" by inserting the following:

"***A school food service director or other individual who is responsible for the management and oversight of the district school food service program shall maintain the credential or certification required under this section.***

(d)".

Floor Amendment No. 1 to the Committee Substitute to **HB 391**, by Representative Damron:

On page 20, line 4, after "coverage" by deleting "***,***"; and

On page 20, by deleting all new material on lines 5, 6, and 7; and

On page 43, line 14, by deleting "***thirty-five percent (35%)***" and inserting in lieu thereof "***fifty percent (50%)***"; and

On page 47, lines 4 and 5, by deleting "***thirty-five percent (35%)***" and inserting in lieu thereof "***fifty percent (50%)***".

Floor Amendment No. 2 to **HB 685**, by Representative J. Lee:

On page 2, line 2, after the word "***which***" insert "***meets the definition of a salvage vehicle under KRS 186A.520 and which***"; and

On page 2, line 3, delete the words "***vehicle but may***" and insert the words "***salvage vehicle but shall***"; and

On page 2, line 6, after the period "***.***" insert "***An insurance company assigning a title under this section shall be required to pay the county clerk a three dollar ($3) fee for each title the clerk assigns for the insurance company.***" and after the word "***company***" delete the words "***does not want***" and insert the word "***fails***"; and

On page 2, line 18, after the period "***.***" insert the following:

"***When a county clerk assigns a title under this section, the clerk shall be required to stamp the back of the title where the insurance company is making the assignment with a brand. The purpose of the brand stamped on the back of the title is to ensure that future owners of the vehicle will be informed it is a salvage vehicle and to prohibit another state from mistakenly issuing a clean title on the salvage vehicle. The Transportation Cabinet shall provide mandatory training for all county clerks and clerks' deputies to inform the clerks of the required duty to stamp a brand on the back of the title of salvage vehicles being assigned by an insurance company.***"; and

On page 2, line 24, after the word "***assigned***" insert "***and branded***"; and

On page 4, after line 13, insert a new Section 4 to read as follows:

"Section 4. KRS 186A.990 is amended to read as follows:

(1) Any person who knowingly gives false, fraudulent, or erroneous information in connection with an application for the registration, and when required, titling of a vehicle, or any application for assignment of a vehicle identification number, or replacement documents, or gives information in connection with his review of applications, or falsely certifies the truthfulness and accuracy of information supplied in connection with the registration and when required, titling of a vehicle, shall be guilty of forgery in the second degree.

(2) Any person who violates KRS 186A.260 or KRS 186A.275 to 186A.285 shall be guilty of a Class D felony.

(3) Any person who violates KRS 186A.300 to 186A.315 shall be guilty of a Class D felony.

(4) Any person who operates a motor vehicle or trailer upon the highways of this state without a temporary tag when one is required, or with one that is expired, improperly executed, or displayed on a vehicle other than the one (1) to which it was legitimately and lawfully issued, shall be guilty of a Class B misdemeanor.

(5) Any person who violates the disclosure provisions of KRS 186A.530(7) shall be guilty of a Class A misdemeanor.

(6) Any person who violates any provisions of this chapter, or regulations promulgated pursuant thereto, and for which a specific penalty is not prescribed by statute, shall be guilty of a Class A misdemeanor.

(7) Criminal remedies or sanctions provided in this chapter are in addition to, and not exclusive of, any other criminal remedies or sanctions provided elsewhere in the statutes.

(8) In addition to other penalties established under this chapter, an insurance company shall be fined five thousand dollars ($5,000) if the insurance company knowingly sells a salvage vehicle by assignment as provided under Section 1 of this Act, that has not had the assignment on the title document properly branded by a county clerk.".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 536, Representative Crimm

HB 622, Representative Colter

HB 747, Representative Palumbo

HB 789, Representatives Bather, Brinkman, Burch, Heleringer, and Weaver

HB 819, Representatives Bather, Brinkman, Burch, Heleringer, and Weaver

HB 841, Representative Palumbo

HR 213, Representatives Fischer and Reinhardt.

The following member filed a request to have his name withdrawn as a co-sponsor of a Bill:

HB 725, Representative Cornett.

Announcements

The following meetings were announced:

Central Kentucky Caucus: upon adjournment

Budget Review Subcommittee on Human Resources: no meeting upon adjournment

Appropriations and Revenue: Tuesday, March 5, 2002, 10:00 a.m.

Labor and Industry, Tuesday: March 5, 2002, noon, Room 125

Adjournment

Representative Barrows moved that the House adjourn until 2:00 p.m. on Tuesday, March 5, 2002.

The motion that the House adjourn until 2:00 p.m., Tuesday, March 5, 2002, was adopted by voice vote.

TUESDAY, MARCH 5, 2002

THIRTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Ron Shaver, Little Flock Ministry Center, Shepherdsville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of Monday, March 4, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Stein moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Stein moved the adoption of the following **Legislative Citation No. 75**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Chief Anthany Beatty upon his visit to the Chambers of the House to view a day in the Regular Session of the 2002 Kentucky General Assembly. Appointed last year as the first African-American to serve as the esteemed chief of the Lexington-Fayette Urban County Government Police Department, Chief Beatty is a twenty-seven year veteran of this organization and has proven to be a respected leader who consistently labors with great integrity on behalf of both the citizens he is sworn to protect and the officers who serve under his command. Inasmuch as Chief Anthany Beatty has brought to his office the vision and integrity necessary to faithfully execute the duties of his post and, as a result, has made many laudable contributions towards the betterment of his community and its citizens, the entire membership joins with Representative Kathy W. Stein in affording sincere expressions of gratitude for his honorable service and in extending to him best wishes as he continues to labor towards the common good in this most vital capacity. Done in Frankfort, Kentucky, this fifth day of March, in the year two thousand and two.

Representative Gray moved that the rules be suspended to grant floor privileges and to act on a Resolution. Agreed.

Representative Gray moved the adoption of the following **HR 203**:

HR 203, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Walter "Mike" South.

WHEREAS, Walter "Mike" South was born December 2, 1946, in Beards Fork, West Virginia, and he traversed these earthly bounds on July 19, 2001, after battling Black Lung disease for nearly 20 years; and

WHEREAS, Walter "Mike" South was the son of a former coal miner; he was the devoted husband to Kathryn South; he was the loving father of two daughters; and he was the proud grandfather of one grandchild; and

WHEREAS, Walter "Mike" South, being just like his father, began his career as a coal miner while in his twenties and continued to work in the coal mines for eleven and one-half years holding various positions including a general laborer, a picker at the table, and an outside carpenter, until 1982 when he was diagnosed with debilitating Black Lung disease; and

WHEREAS, Walter "Mike" South, being awarded federal black lung benefits in 1989, worked tirelessly every minute of every day from that point on, towing his oxygen tank with him and struggling to catch his breath as he worked to build stronger and more effective coalitions between the Black Lung Associations, the United Mine Workers of America (UMWA), the Black Lung clinic programs, and various other associations throughout the country; and

WHEREAS, Walter "Mike" South in 1994 was recognized for his commitment and hard work for all miners, was elected president of the National Black Lung Association where he helped to establish new black lung chapters throughout the country, traveling throughout the coalfields organizing and educating all miners, and devoted himself to reforming the Federal Black Lung Benefit Program, and in 1997 Mike's hard work paid off as new proposed federal regulations were issued and later implemented as law in 2001; and

WHEREAS, all who knew and admired Walter "Mike" South will grieve over their loss, and he is mourned across the Commonwealth and the entire Appalachian region;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Walter "Mike" South, and extends to his family and many friends its most heartfelt sympathy.

Section 2. The passion, dedication, and social consciousness Walter "Mike" South brought to all coal miners throughout the black lung community will never be forgotten, and his spirit and dream for justice for all victims of Black Lung disease will never be forgotten, and will continue on in those lives whom he touched.

Section 3. When the House of Representative adjourns this day, it does so in loving memory and honor of Walter "Mike" South.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Kathryn South, 1350 Beards Fork Road, Beards Fork, West Virginia 25173-9740.

There being no objection **HR 203** was adopted.

Representative Gray moved that a call of the roll be taken to show co-sponsors of **HR 203**.

On the roll call for co-sponsors of **HR 203** the vote was: **Yeas 83** (See March 5, 2002 roll call to show co-sponsors on **HR 203** - Appendix)

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 47** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:20 p.m.)

Introduction of Bills and Resolutions

HCR 218, by Representative Hoover: A CONCURRENT RESOLUTION directing a study of state office space needs.

HR 219, by Representative Denham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Goldie Elizabeth Graham.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 847, 855, HJR 210**

Appropriations and Revenue: **HB 837, 860, 862, 864, 865, 869, HJR 214**

Banking and Insurance: **HB 846, 853, 875**

Economic Development: **HB 841**

Education: **HB 833, 834, 848, 856, 873, HJR 215**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 871**

Health and Welfare: **HB 840, 843, HR 209**

Judiciary: **HB 835, 844, 861, 863, 868, 870**

Labor and Industry: **HB 832, 845, HB 851, HB 874**

Licensing and Occupations: **HB 849, 866, 872**

Local Government: **HB 838, 839, 852, 854, 859**

Seniors, Military Affairs and Public Safety: **HB 842, 858**

State Government: **HB 831, 836, 857**

Transportation: **HB 830, 850, 867, HJR 212, 217**

Report of Committees

The Committee on Rules reported that **HB 183** and **HB 234** have been posted for passage in the Orders of the Day for March 6, 2002.

The Committee on Natural Resources and Environment reported **HB 745,** with Committee Amendment attached thereto, **HB 792,** and **HB 809,** with Committee Amendment attachment thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 745, AN ACT relating to oil and gas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 353.640 is amended to read as follows:

(1) The operator shall provide a list to the department of all persons reasonably known to own an oil or gas interest in any tract, or portion thereof, proposed to be pooled in an application to the department for a pooling order. A pooling order shall be made only after the department provides notice to all persons reasonably known to own an oil or gas interest in any tract, or a portion thereof, proposed to be pooled after a hearing has been held. In the event of the filing of an application for a pooling order under KRS 353.630(2) where unknown owners or nonlocatable owners exist, the operator shall cause to be published, at least twenty (20) days prior to the hearing on the application for the pooling order, one (1) notice in the newspaper of the largest circulation in each county in which any tract, or portion thereof, proposed to be pooled is located. The notice shall:

(a) State that an application for a pooling order is being filed with the Division of Oil and Gas in the department;

(b) Describe any tract, or portion thereof, proposed to be pooled;

(c) In the case of an unknown owner, identify the name of the last known owner;

(d) In the case of a nonlocatable owner, identify the owner and the owner's last known address; and

(e) State that any party claiming an interest in any tract, or portion thereof, proposed to be pooled should contact the director of the Division of Oil and Gas in the department within twenty (20) days of the date of publication.

(2) A pooling order shall authorize the drilling, deepening, or reopening, and the operation of a well for the production of oil or gas on the tracts or portions thereof pooled; shall designate the operator to drill and operate the well; shall prescribe the time and manner in which all owners of operating interests in the pooled tracts or portions thereof may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, deepening, or reopening, and the completing, operating, plugging, and abandoning the well shall be borne, and all production from the well shall be shared by all owners of operating interests in proportion to the net mineral acres in the pooled tracts owned or under lease to each owner; and shall make provision for the payment of the reasonable actual cost thereof, including a reasonable charge for supervision, by all those who elect to participate therein.

(3) ***A pooling order shall establish a procedure for the owner of an operating interest who does not decide to become a participating operator to elect to either:***

(a) Surrender the interest to a participating operator on a reasonable basis and for a reasonable consideration, which if not agreed upon shall be determined by the director; or

(b) Share in the operation of the well as a nonparticipating operator on a carried basis after the proceeds allocable to his or her share equal two hundred percent (200%) of the share of the costs allocable to his or her interest.

(4) An oil or gas owner whose identity and location remain unknown at the conclusion of a hearing concerning the establishment of a pooling order for which public notice was given and whose interest is pooled pursuant to KRS 353.630(3) shall be deemed to have elected to lease the interest to the oil or gas operator at a rate to be established by the director and the owner shall not be entitled to make the election established in subsection (3) of this section.

(5) Except as provided in this subsection, an oil or gas owner who does not make an election under the pooling order within thirty (30) days of the entry of the order shall be deemed to have leased the oil or gas interest to the oil or gas well operator as the pooling order may provide. If the owner of an operating interest has obtained the interest by lease or other agreement granting the right to conduct operations to anyone other than the owner of the oil and gas estate, and if the owner of the operating interest does not make an election under the pooling order, the owner shall be deemed to have elected to share in the operation of the well as a nonparticipating operator on a carried basis after the proceeds allocable to his or her share equal two hundred percent (200%) of the share of the costs allocable to his or her interest.

(6) A person whose interest is covered by an oil or gas lease or other agreement granting the right to operate or conduct operations to another shall not own an operating interest for the purposes of subsection (3) of this section~~[Upon request a pooling order shall provide one (1) or more just and equitable alternatives whereby, an owner of an operating interest, who does not elect to participate in the risk and cost of the drilling, deepening, or reopening of a well:~~

~~(a) May elect to surrender his interest or a portion thereof to the participating owners on a reasonable basis and for a reasonable consideration which, if not agreed upon, shall be determined by the director; or~~

~~(b) May elect to participate in the drilling, deepening, or reopening of the well on a limited or carried basis upon terms and conditions determined by the director to be just and reasonable]~~.

(7)[~~(4)~~] A certified copy of any pooling order entered under KRS 353.500 to 353.720 shall be entitled to be recorded in the office of the county clerk of the county or counties in which all or any portion of the pooled tract is located, and the record of the order, from the time of lodging the order for record, shall be notice of the order to all persons.

The Committee Amendment No. 1 to **HB 745** is as follows:

On page 1, line 20, after "contact" by inserting "***the operator at the published address and provide a copy of the notification to***"; and

On page 2, line 11, after "***Surrender***" by inserting "***, by means of sale or lease,***"; and

On page 2, line 19, after "***the***" by deleting "***establishment***" and inserting "***entry***" in lieu thereof; and

On page 2, line 22, after "***operator***" by deleting "***at a rate to be established by the director and the owner***" and inserting "***, exclusive of one-eighth (1/8) of the production attributable to the unleased interest, and***"; and

On page 2, line 27, after "***operator***" by deleting "***as the pooling order may provide***" and inserting in lieu thereof "***in the manner established in subsection (4) of this section***"; and

On page 2, line 27, after the second occurrence of "***the***" by deleting "***owner***" and inserting "***holder***" in lieu thereof; and

On page 3, line 2, after "***the***" by deleting "***owner***" and inserting "***holder***" in lieu thereof; and

On page 3, line 4, after the first occurrence of "***the***" by deleting "***owner***" and inserting "***holder of the operating interest***"; and

On page 3, line 8, after "***is***" by deleting "***covered by***" and inserting "***subject to***" in lieu thereof; and

On page 3, line 9, by deleting "***granting***" and inserting "***which grants to another***"; and

On page 3, line 9, after "***operations***" by deleting "***to another***".

HB 792, AN ACT relating to mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Approved" means that a device, apparatus, equipment, ***or*** machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department of Mines and Minerals;

(b) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;

(c) "Board" means the Mining Board created in KRS 351.105;

(d) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;

(e) "Commission" means the Mine Safety Review Commission created by KRS 351.1041;

(f) "Commissioner" means commissioner of the Department of Mines and Minerals;

(g) "Department" means the Department of Mines and Minerals;

(h) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;

(i) "Excavations and workings" means the excavated portions of a mine;

(j) "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;

(k) "Gassy mine***.***"[~~ means any mine in which there is a record of methane having been ignited, or having been detected with a permissible flame safety lamp, or where methane in the amount of twenty-five hundredths percent (0.25%) or more has been found not less than twelve (12) inches from the roof, face, or rib, using approved methane testers or detectors or by analysis. However on and after June 19, 1976,~~] All mines shall be classified as gassy or gaseous;

(l) "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) oxygen,[~~ nor more than one-half of one percent (0.5%) of carbon dioxide,~~] no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;

(m) "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;

(n) "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management, but which are administered as distinct units shall be considered a separate mine;

(o) "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of the persons employed therein;

(p) "Open-pit mine" shall include open excavations and open-cut workings including, but not limited to, auger operations and highwall mining systems for the extraction of coal;

(q) "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;

(r) "Permissible" refers to any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration and that meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification by the approving agency;

(s) "Preshift examination" means the examination of a mine or any portion thereof where miners are scheduled to work or travel, which shall be conducted not more than three (3) hours before any on-coming shift;

(t) "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;

(u) "Shaft" means a vertical opening through the strata that is used in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;

(v) "Slope" means an inclined opening used for the same purpose as a shaft;

(w) "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines; and

(x) "Supervisory personnel" means a person certified under the provisions of this chapter to assist in the supervision of a portion or the whole of the mine or of the persons employed therein.

(2) Except as the context otherwise requires, this chapter applies only to commercial coal mines.

(3) The definitions in KRS 352.010 apply also to this chapter, unless the context requires otherwise.

Section 2. KRS 351.090 is amended to read as follows:

(1) The Governor shall appoint an adequate number of mine inspectors to insure at least two (2) inspections annually, provided the mine is in operation the entire year or the proportionate thereof, of all mines in the Commonwealth and sufficient additional inspectors to enable the commissioner to provide adequate surveillance of coal mines where conditions or management policy dictate that more inspections are needed to insure the safety of miners. One (1) or more of the appointees may be designated as electrical mine inspectors. The Governor shall also appoint an adequate number of mine safety analysts and mine safety instructors. The term of office of each mine inspector, each mine safety analyst, each electrical inspector, and each mine safety instructor shall be during the period of capable, efficient service and good behavior.

(2) All mine inspectors, mine safety analysts, electrical inspectors, and mine safety instructors shall have a thorough knowledge of first aid and mine rescue and be able to instruct in first aid and mine rescue, and shall possess thoroughly the knowledge required of the commissioner by KRS 351.060, and shall have a thorough and practical knowledge of mining gained by at least five (5) years' experience in coal mines in the Commonwealth. All surface mine safety analysts shall have at least five (5) years' experience in surface mines in the Commonwealth. For the purposes of this subsection, a degree in mining engineering from a recognized institution shall be deemed equivalent to two (2) years of practical experience in coal mines or an associate degree in mining technology from a recognized institution shall be deemed equivalent to one (1) year practical experience in coal mines. A person desiring to use a mining engineering or technology degree for practical experience credit shall file proof of having received a degree prior to examination.

(3) No person shall be appointed to the office of mine inspector, underground mine safety analyst, electrical inspector, or mine safety instructor unless he holds a current mine foreman's certificate. No person shall be appointed to the office of surface mine safety analyst unless he holds a current surface mine foreman's certificate. A person appointed as mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall pass an examination administered by the board. The commissioner may recommend to the Governor applicants for the positions of mine inspector, mine safety analyst, electrical inspector, or mine safety instructor who have successfully passed the examination and are proved by worth, training, and experience to be the most competent of the applicants.

(4) Mine inspectors, mine safety analysts, electrical inspectors, and mine safety instructors shall be of good moral character and temperate habits and shall not, while holding office, act in any official capacity in operating any coal mine.

(5) No reimbursement for traveling expenses shall be made except on an itemized accounting for the expenses submitted by inspectors, analysts, and safety instructors who shall verify upon oath that the expenses were incurred in the discharge of their official duties.

(6) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall take oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate, shall be filed in the office of the Secretary of State.

(7) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall give bond with surety approved by the Governor.

[~~(8) Persons, other than those employed by a company, who by contractual or other rights, perform mine inspection work in any capacity, shall be familiar with mining and possess experience equal to that required of a state mine inspector. They shall also be held responsible for their conduct in the performance of their inspections and related acts. This subsection shall not apply to persons excluded by other laws or those who by agreement with the licensee make mine visits for technical and investigative work.~~]

Section 3. KRS 351.102 is amended to read as follows:

(1) No person shall be assigned ***mining*** duties by a licensee as a laborer or supervisor [~~working for the purpose of mining coal~~]unless the person holds a valid certificate of competency and qualification or a valid permit as trainee issued in accordance with this section.

(2) A permit as trainee miner shall be issued by the commissioner to any person who has completed a program of education of a minimum of forty (40) hours for underground mining or ***twenty-four (24)***[~~sixteen (16)~~] hours for surface mining ***comprised of sixteen (16) hours of classroom training and eight (8) hours of mine specifics*** or who has completed a certified mine technology program and has passed an examination approved by the commissioner. An additional eight (8) hours of mine-specific training shall be administered to the trainee miner by the licensee, which training shall be documented on a form approved by the commissioner. This education and training program shall be determined and established by the board, as provided in KRS 351.106.

(3) Trainee miners shall work within the sight and sound of a certified miner.

(4) Any miner holding a certificate of competency and qualification may have one (1) person working with him and under his direction as a trainee miner. Any person certified as a mine foreman or assistant mine foreman shall have no more than five (5) persons working under his supervision or direction as trainee miners for the purpose of learning and being instructed in the duties of underground coal mining.

(5) A certificate of competency and qualification as a miner shall be issued by the commissioner to any person who has a minimum of forty-five (45) working days' experience within a thirty-six (36) month period as a trainee miner and demonstrated competence as a miner.

(6) All examinations for the certification of a miner shall be of a practical nature and shall determine the competency and qualification of the applicant to engage in the mining of coal with reasonable safety to himself and his fellow employees. The examination ***may***[~~shall~~] be given orally***, upon approval by the commissioner,*** if the miner is unable to read or comprehend a written examination.

(7) Examinations shall be held in any district office during regular business hours.

(8) If the commissioner or his authorized representative finds that an applicant is not qualified and competent, he shall notify the applicant not more than ten (10) days after the date of examination.

(9) Any applicant aggrieved by an action of the commissioner or his authorized representative in failing or refusing to issue a certificate of qualification and competency shall, within ten (10) days of notice of the action complained of, appeal to the commissioner who shall either affirm the action or issue the certificate to the applicant.

(10) If the applicant is aggrieved by the action of the commissioner, he may appeal to the commission which shall hold a hearing on the matter in accordance with KRS Chapter 13B.

(11) The applicant may appeal from the final order of the commission by filing in the Franklin Circuit Court a petition for appeal in accordance with KRS Chapter 13B.

Section 4. KRS 351.106 is amended to read as follows:

(1) The Mining Board shall establish criteria and standards for a program of education and training to be required of prospective miners, miners, and all certified persons. This education and training shall be provided in a manner determined by the commissioner to be adequate to meet the standards established by the board, which shall include as a minimum the requirements of KRS 351.102 and the requirements of the federal government for the training of miners for new work assignments, and at least ***sixteen (16)***[~~eight (8)~~] hours of annual retraining and reeducation for all certified persons.

(2) Beginning with the first full calendar year after the effective date established by the board and during each calendar year thereafter, each certified miner shall receive at least ***sixteen (16)***[~~eight (8)~~] hours of retraining and reeducation.

(3) Newly-hired experienced miner training shall satisfy the miner's annual retraining requirement if a time lapse occurs between the miner's last training anniversary date and the next scheduled training anniversary date for the mine where he is newly employed, if the miner has complied with the annual retraining requirements within the last twelve (12) months from the date of his newly hired experienced miner training.

(4) Retraining and reeducation sessions shall be conducted at times and in numbers to reasonably assure each certified miner an opportunity to attend.

(5) The licensee shall pay all certified miners their regular wages and benefits while they receive training required by the department.

(6) Willful failure of a working miner to complete annual retraining and reeducation requirements shall constitute grounds for revocation, suspension, or probation of his certificate.

(7) If the department discovers a miner working without proper training or the licensee cannot provide proof of training, the miner shall be withdrawn ***immediately*** from the mine and the licensee shall pay the miner his regular wages until the training is administered and properly documented.

(8) When employment is terminated, the licensee shall provide the employee a copy of his training records, upon request. If the employee does not request his training records immediately, the licensee shall, within fifteen (15) days, provide the employee with those training records.

(9) The board may, upon its own motion or whenever requested to do so by the commissioner, deem applicable certificates issued by other states to be proof of training and education equal to the requirements of KRS 351.102 or deem training provided by appropriate federal agencies to be adequate to meet training and education requirements established by the board, if the training and education meet the minimum requirements of this chapter.

(10) The commissioner may promulgate~~[reasonable]~~ administrative regulations necessary to establish a program to implement the provisions of this chapter according to the criteria and standards established by the board. This program shall include, but not be limited to, implementation of a program of instruction and the conduct of examinations to test each applicant's knowledge and understanding of the training and instruction.

(11) The commissioner shall keep and maintain~~[records of board meetings, activities of the board, and]~~ current records on all certified miners, all of which shall be maintained by computer for ready access.

(12) The commissioner is authorized and directed to utilize state mine inspectors, mine safety instructors, the state mine foreman examiner, private and public institutions of education, and other qualified persons available to him in implementing the program of instruction and examination.

(13) The commissioner may make recommendations to the board as he may deem appropriate. The commissioner shall provide information to the board at the board's request. The commissioner is authorized and directed to utilize state and federal moneys and personnel that may be available to the department for educational and training purposes in the implementation of the provisions of this chapter.

(14) All training and education required by this ***section***~~[chapter]~~ may be conducted in classrooms, on the job, or in simulated mines.

Section 5. KRS 351.127 is amended to read as follows:

(1) ~~[Effective January 1, 1997,]~~A certified emergency medical technician or mine emergency technician shall be employed at every ***licensed*** coal mine whose employees are ***actively*** engaged in the extraction, production, or preparation of coal. Persons employed as mine emergency technicians shall be trained in a manner established in an administrative regulation promulgated by the department.

(2) These emergency medical technicians or mine emergency technicians shall be employed in the following manner:

  (a) One (1) emergency medical technician or mine emergency technician shall be employed on every shift with a workforce of up to fifty (50) employees;

  (b) An additional emergency medical technician or mine emergency technician shall be employed for every additional fifty (50), or any portion thereof, employees per shift who are ***actively*** engaged in the extraction, production, or preparation of coal.

(3) If these emergency medical technicians or mine emergency technicians are also employed in other capacities at the coal mine, they shall be available for quick response to emergencies and shall have available to them at all times the equipment necessary to respond to emergencies, as prescribed by the commissioner.

(4) If the licensee selects existing employees to be trained as emergency medical technicians or mine emergency technicians, the employees selected shall be paid their regular wages during training.

(5) Certified emergency medical technicians and mine emergency technicians shall receive annual retraining in the manner established in an administrative regulation promulgated by the department, during which they shall receive their regular wages.

Section 6. KRS 351.1291 is amended to read as follows:

(1) All inexperienced surface coal miners shall complete a ***twenty-four (24)***~~[sixteen (16)]~~ hour course of instruction ***composed of sixteen (16) hours of classroom training and eight (8) hours of mine specifics that is*** devised or approved by the department in subjects including, but not limited to: accident prevention, cutting and welding, equipment operation, fire protection, first-aid methods, ground control and transportation, handling and use of explosives, mine communications, mine electrical safety standards, mining law, including the statutory rights of miners, safety around bins and hoppers, and any other subjects deemed appropriate by the department. For purposes of this section, "inexperienced coal miners" means all persons who have not previously worked at least forty-five (45) days at a surface coal mine in this Commonwealth.

(2) All surface coal miners shall complete an eight (8) hour course of annual retraining devised or approved by the department in the subjects identified in subsection (1) of this section.

(3) The commissioner shall certify all surface coal miners who complete the courses of instruction required in subsections (1) and (2) of this section.

Section 7. KRS 351.310 is amended to read as follows:

As used in KRS 351.315 to 351.375 unless the context clearly indicates otherwise:

(1) "Explosives" means any chemical compound or other substance or mechanical system intended for the purpose of producing an explosion, or that contains oxidizing and combustible units or other ingredients in such proportions or quantities that ignition by detonation may produce an explosion, capable of causing injury to persons or damage to property;

(2) "Blasting operation" means the use of explosives in the ***surface*** blasting of stone, rock, ore or any other natural formation, or in any construction or demolition work, but shall not include its use in agricultural operations;

(3) "Blaster" means a person licensed to fire or detonate explosives in blasting operations;

(4) "Charge" means a quantity of explosive or equivalent that is to be detonated within a period of five (5) seconds;

(5) "Subcharge" means a quantity of explosive or equivalent that is to be detonated within a period of less than eight (8) milliseconds;

(6) "Detonation time" means the time at which the detonation is initiated;

(7) "Department" means the Department of Mines and Minerals;

(8) "Commissioner" means the commissioner of mines and minerals.

Section 8. KRS 352.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Abandoned workings" means excavations, either caved or sealed, that are deserted and in which further mining is not intended, or open workings which are ventilated and not inspected regularly;

(b) "Active workings" means all places in a mine that are ventilated and inspected regularly;

(c) "Approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department of Mines and Minerals;

(d)[~~"Approved safety lamp" means any bonneted lamp that bears the approval plate of the Federal Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration and is approved by the department;~~

~~(e)~~] "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;

(e)[~~(f)~~] "Board" means the Mining Board created in KRS 351.105;

(f)[~~(g)~~] "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;

(g)[~~(h)~~] "Commissioner" means commissioner of the Department of Mines and Minerals;

(h)[~~(i)~~] "Department" means the Department of Mines and Minerals;

(i)[~~(j)~~] "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom, or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;

(j)[~~(k)~~] "Excavations and workings" means the excavated portions of a mine;

(k)[~~(l)~~] "Face equipment" means mobile or portable mining machinery having electric motors or accessory equipment normally installed or operated inby the last open crosscut in any entry or room;

(l)[~~(m)~~] "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;

(m)[~~(n)~~] "Gassy mine***.***"[~~means any mine in which there is a record of methane having been ignited, or having been detected with a permissible flame safety lamp, or where methane in the amount of twenty-five hundredths percent (0.25%) or more has been found not less than twelve (12) inches from the roof, face, or rib, using approved methane testers or detectors or by analysis, provided, nevertheless, that on and after June 19, 1976,~~] All underground mines shall be classified as gassy or gaseous;

(n)[~~(o)~~] "High voltage" means any voltage of one thousand (1,000) volts or more;

(o)[~~(p)~~] "Imminent danger" means the existence of any condition or practice which could reasonably be expected to cause death or serious physical harm before the condition or practice can be abated;

(p)[~~(q)~~] "Inactive workings" shall include all portions of a mine in which operations have been suspended for an indefinite period, but have not been abandoned;

(q)[~~(r)~~] "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) of oxygen,[~~ nor more than one half of one percent (0.5%) of carbon dioxide,~~] no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;

(r)[~~(s)~~] "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;

(s)[~~(t)~~] "Low voltage" means up to and including six hundred sixty (660) volts;

(t)[~~(u)~~] "Medium voltage" means voltages greater than six hundred sixty (660) and up to nine hundred ninety-nine (999) volts;

(u)[~~(v)~~] "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management and which are administered as distinct units shall be considered separate mines;

(v)[~~(w)~~] "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of persons employed therein;

(w)[~~(x)~~] "Open-pit mine" shall include open excavations and open-cut workings including auger ***operations and highwall mining systems***[~~mines~~] for the extraction of coal;

(x)[~~(y)~~]"Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;

(y)[~~(z)~~] "Permissible" means that any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification;

(z)[~~(aa)~~] "Preshift examination" ***refers to***[~~means~~] the examination of an underground mine or part of a mine where miners are scheduled to work or travel, and shall be conducted not more than three (3) hours before any on-coming shift;

(aa)[~~(bb)~~] "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;

(ab)[~~(cc)~~] "Shaft" means a vertical opening through the strata that is or may be used, in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;

(ac)[~~(dd)~~] "Slope" means an inclined opening used for the same purpose as a shaft;

(ad)[~~(ee)~~] "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;

(ae)[~~(ff)~~] "Supervisory personnel" shall mean a person or persons certified under the provisions of KRS Chapter 351 to assist in the supervision of a portion or the whole of the mine or of the persons employed therein;

(af)[~~(gg)~~] "Tipple or dumping point" means the structure where coal is dumped or unloaded from the mine car into railroad cars, trucks, wagons, or other means of conveyance;

(ag)[~~(hh)~~] "Working face" means any place in a coal mine at which the extraction of coal from its natural deposit in the earth is performed during the mining cycle;

(ah)[~~(ii)~~] "Working place" means the area of a coal mine inby the last open crosscut; and

(ai)[~~(jj)~~] "Working section" means all areas of a coal mine from the loading point to and including the working faces.

(2) The definitions in KRS 351.010 apply also to this chapter, unless the context requires otherwise.

(3) Except as the context otherwise requires, this chapter applies only to commercial mines as defined in KRS 351.010.

Section 9. KRS 352.020 is amended to read as follows:

(1) The ventilation of all underground coal mines shall be produced by means of mechanically operated fans located outside the mine in fireproof housing and offset at least fifteen (15) feet to one (1) side or above the opening, protected by explosion doors or weak walls and arranged so that ventilating current may be reversed if necessary. The fan shall be installed so as to prevent recirculation of mine air. The main fan shall be operated from a power circuit independent from the mine circuit. If inside auxiliary fans are required to ventilate working places the commissioner must first approve the installation.

(2) The licensee, superintendent, or foreman of every coal mine worked by shaft, slope, or drift shall provide and maintain for every mine ***two (2) separate and distinct escapeways, one (1) of which is vented by the intake air. However, if a mine was originally licensed prior to January 1, 1990, the commissioner may approve an alternate ventilation plan***[~~adequate~~

~~ventilation~~]. Each active working section shall be ventilated by a separate split of intake air. In all mines the quantity of air passing through the last open crosscut between the intake and return in any pair or sets of entries shall be not less than nine thousand (9,000) cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. All working faces from which coal is being cut, mined, or loaded in a working section between the intake and return airway entries shall be ventilated with a minimum quantity of three thousand (3,000) cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. The quantity of air reaching the last crosscut in pillar sections may be less than nine thousand (9,000) cubic feet of air per minute if at least nine thousand (9,000) cubic feet of air per minute is being delivered to the intake of the pillar line. The air current shall under any conditions have a sufficient volume and velocity to reduce and carry away smoke from blasting and any flammable or harmful gases. All active underground working places in a mine shall be ventilated by a current of air containing not less than nineteen and one-half percent (19.5%) of oxygen,[~~ not more than one-half percent (0.5%) of carbon dioxide,~~] and no harmful quantities of other noxious or poisonous gases.

(3) All mines shall maintain at least nine thousand (9,000) cubic feet of air per minute at the points mentioned in subsection (2) of this section. The commissioner shall have the authority to require additional air in any mine when he deems it necessary for the safety of the employees.

(4) When the air from a split has passed through and has ventilated all the working places in an air split of a mine it shall then be designated as return air.

(5) As working places advance, breakthroughs for air shall be made not more than ninety (90) feet apart, except that where longwall or modern systems of mining are used the commissioner ***or his authorized representative*** may approve a greater distance between breakthroughs or the method of ventilating such longwall or modern systems of mining. If any breakthroughs between intake and return airways are not required for the passage of air, they shall be closed with stoppings. All permanent stoppings shall be substantially built with suitable incombustible or fire resistant material subject to the approval of the mine inspector so as to keep the working places well ventilated. All brattice cloth and ventilation tubing shall be flame resistant. Doors on the main haulways shall be avoided where practicable, and overcasts, built of concrete or other suitable material and of ample strength, shall be adopted. Where doors are used they shall be built in a substantial manner, and shall be hung so as to close automatically when unobstructed.

(6) In a mine where methane can be found to an extent of one percent (1%) or more on the return of any one (1) split, the inspector, with the approval of the commissioner may require the mine to be ventilated by the exhaust system, requiring the haulage roads and all trolley and feed wires to be located on the intake air and the electrical system to be so arranged that no wires carrying electrical current shall be on return air. A period of not more than ninety (90) days from date of notification shall be allowed to make the changes required.

Section 10. KRS 352.030 is amended to read as follows:

(1) As many as sixty (60) persons may work in the same air current or split, and with the approval of the mine inspector and the commissioner, as many as eighty (80) persons may work in the same air current. Each active section in a mine shall be ventilated by a separate split of intake air. Every mine, and all portions thereof, shall be ventilated by one (1) or more currents of air, which shall contain not less than nineteen and one-half percent (19.5%) of oxygen,[~~ nor more than one-half percent (0.5%) of carbon dioxide,~~] nor any dangerous quantities of ***flammable***[~~inflammable~~] gas, nor any harmful amount of poisonous gases or dust, when the current of air enters into each split. The ventilation shall be sufficient to prevent methane accumulations, so far as practicable, and to keep the methane percentage in the return of any split to not more than two percent (2%).

(2) The ventilating current shall be circulated through the haulageways, travelways, and airways to reach all portions of the mine, except sealed sections; and it shall be circulated through the entries and rooms around the ends of line brattice and along pillar lines. It shall be conducted to the last breakthrough, or to the working faces if required, by means of stoppings, check doors, curtains, and brattice that may be necessary or required, in order to dilute, render harmless, and carry away the noxious and dangerous gases, smoke, and dust liberated therein, and to supply a sufficient quantity of ventilation for all emergencies. The ventilating current in the area of a mine's belt entries shall be directed to an air return before the ventilating current reaches the face area, unless the department, under certain conditions issues a permit for belt air to be used at the coal face. The department shall render a final written decision within sixty (60) calendar days of receipt of the permit application.

(3) When mine ventilation, formerly satisfactory and adequate, becomes deficient in quality or quantity, the department shall have authority to order improvement of the ventilation.

(4) No licensee, superintendent, or mine foreman shall permit any person to work at a place where sufficient ventilation cannot be maintained, except persons employed to make the places of employment safe in compliance with the requirements of this chapter, and while repair work necessary to comply with the requirements is in progress no person shall be permitted to enter that part of the mine affected except those actually employed in doing the repair work. The repair work shall be done under the constant supervision of a certified official designated by the mine foreman.

(5) Each licensee shall adopt a plan[~~ within sixty (60) days after June 16, 1972,~~] which shall provide that when any mine fan stops, immediate action shall be taken by the licensee or his agent:

(a) To withdraw all persons from the working sections;

(b) To cut off the power in the mine in a timely manner;

(c) To provide for restoration of power and resumption of work if ventilation is restored within a reasonable period, of not more than fifteen (15) minutes, as set forth in the plan after the working places and other active workings where methane is likely to accumulate are reexamined by a certified person to determine if methane in amounts of one percent (1%) or more exists therein; and

(d) To provide for withdrawal of all persons from the mine if ventilation cannot be restored within a reasonable time, of not more than fifteen (15) minutes.

The plan and revisions thereof approved by the commissioner or his authorized representative shall be set out in printed form and a copy shall be furnished to the commissioner or his authorized representative.

Section 11. KRS 352.090 is amended to read as follows:

(1) All unused workings and abandoned parts of mines shall be protected by safeguards that will prevent[~~, so far as practicable,~~] the accumulation or overflow of gas, and all avenues leading thereto shall be so arranged and conducted as to give warning to all persons of the danger of entering, and notice shall be posted warning all unauthorized persons not to enter these parts of the mine. If the area cannot be adequately ventilated***,*** and examined, ***or evaluated*** it shall be sealed in a timely manner.

(2) No person, except persons authorized to make examination thereof, shall enter any unused or abandoned part of a mine after the warning has been posted.

(3) Where the practice is to seal abandoned workings, the sealing shall be done immediately in an effective manner with noncombustible material. In every sealed area, one (1) or more of the seals shall be fitted with a pipe and cap or valve to permit the gases behind the seals to be sampled and also to provide a means of determining any existing hydrostatic pressure. When required by the mine inspector and commissioner, drill holes shall be extended from the surface to the sealed area, or vent pipes shall be extended from the sealed area to a return air course. Sufficient ventilation shall be provided at each seal to prevent dangerous gases from accumulating.

Section 12. KRS 352.100 is amended to read as follows:

No person shall attempt to enter, explore or survey an abandoned mine or portion thereof without the approval of the mine inspector or the commissioner ***and unless he adheres to conditions prescribed by the commissioner***.

Section 13. KRS 352.133 is amended to read as follows:

All underground miners shall be provided with an approved ***self-contained*** self-rescuer device and shall have that device within twenty-five (25) feet of them at all times ***unless the licensee receives approval from the commissioner to store self-contained self-rescuers more than twenty-five (25) feet away from underground miners***. The ***self-contained*** self-rescuer shall be provided to the miners by the licensee at no cost to the miners.

Section 14. KRS 352.140 is amended to read as follows:

(1) ***Only a certified hoistman***[~~No operator or superintendent of any mine worked by shaft, slope, or incline~~] shall ***be placed***[~~place~~] in charge of any ***mechanism***[~~engine or drum~~] used for lowering or hoisting any persons employed in the mine[~~ any but competent and sober engineers or drum runners~~]. Where automatic elevators are used and all safety devices are provided, the services of a ***hoistman***[~~hoisting engineer~~] are not required. ***A certified hoistman***[~~Hoisting engineers and drum runners~~] shall pass a test as to ***his***[~~their~~] knowledge of hoisting equipment and the precautions to be taken when raising or lowering men or materials. Certification of ***hoistmen***[~~hoisting engineers and drum runners~~] shall be under such conditions and by tests prescribed by the commissioner.

(2) No ***hoistman***[~~engineer~~] in charge of such machinery shall allow any person except such as may be designated for this purpose by the operator or superintendent to interfere with any part of the machinery.

(3)[~~ No person shall interfere with or intimidate the engineer or drum runner in the discharge of his duties.~~

~~(4)~~] In a mine worked by shaft, slope, or incline, no more than twenty (20) persons shall ride in any cage or car at one (1) time, without the approval of the mine inspector and the commissioner of the department, and no person shall ride on a loaded cage or car, except that where special man-cars or cages are employed to haul workmen on inclines the commissioner may regulate the method and procedure of handling of man-cars, cages, and workmen. Each cage or elevator installed after June 16, 1972, which is used for lowering and raising men shall have at least two and one-half (2-1/2) square feet of floor space for each person.

Section 15. KRS 352.150 is amended to read as follows:

(1) After June 16, 1972, on single-track haulage roads in mines, which the persons employed in the mine must use while performing their work or while traveling on foot to and from their work, there shall be places of refuge on one (1) side not less than five (5) feet in depth from the side of the mine car, and five (5) feet wide, and not more than ninety (90) feet apart. Refuge holes of the same dimensions shall also be provided at switch throws.

(2) Special places of refuge are not required on haulage roads on which room necks or breakthroughs occur at regular intervals not exceeding ninety (90) feet, and thus furnish places of refuge, or on haulage roads in which the track is so laid as to give a minimum clearance on one (1) side of not less than thirty (30) inches from the side of any haulage engine or any mine car, the clearance to be on the side of the road opposite that upon which electric wires are strung, if electric wires are

strung in the road.

(3) No unauthorized person shall travel on foot to or from work upon any haulage road or slope where transportation is by track, when other roads in proper condition for travel are available.

(4) On all main haulage roads where hauling is done by machinery the mine foreman shall provide a proper system of signals, and a conspicuous light or marker approved by the commissioner on the front and rear of every trip or train of cars when in motion in the mine.

(5) Man-trips shall be operated at safe speeds consistent with the condition of roads and type of equipment used and shall be so controlled that they can be stopped within the limits of visibility, in no event at a speed in excess of twelve (12) miles per hour.

(6) Each man-trip consisting of more than one (1) mine car of men shall be under the charge of a certified official, and it shall be operated independently of any loaded trip of coal or other material.

(7) Cars on the man-trip shall not be overloaded, and sufficient cars in good mechanical condition shall be provided.

(8) No person shall ride under the trolley wire unless suitably covered man-cars are used.

(9) No material or tools except small hand tools shall be transported in the same car with men on any man-trip unless in a separate, enclosed compartment of the car, and all persons shall ride inside of man-trip cars, except the motorman and brakeman or trip rider.

(10) Men shall not load or unload before the cars in which they are to ride or are riding come to a full stop, and men shall proceed in an orderly manner to and from man-trips.

(11) A waiting station shall be provided where men are required to wait for man-trips or man-cages. It shall have sufficient room, ample clearance from moving equipment, and adequate seating facilities.

(12) Trolley and power wires shall be guarded effectively at man-trip stations where there is a possibility of any person coming in contact with energized electric wiring while loading or unloading from the man-trip.

(13) Cars used for transporting men on slopes shall be equipped with a safety device capable of stopping the trip in event of failure of the rope or couplings. The device shall be approved by the commissioner.

(14) ***Belts shall not be used for the transport of men except when conditions as prescribed by the commissioner constitute an emergency***[~~Where belts are used for transporting men, a minimum clearance of eighteen (18) inches shall be maintained between the belt and the roof or cross bars, projecting equipment, cap pieces, overhead cables, wiring, and other objects; but where the height of the coal bed permits, the clearance shall not be less than twenty-four (24) inches.~~

~~(15) Unless a greater speed is allowed by special permission from the commissioner, in which event the conditions, limitations, and rules imposed in connection with the grant of permission shall be observed, the belt speed shall not exceed two hundred fifty (250) feet per minute where the minimum overhead clearance is eighteen (18) inches, or three hundred (300) feet per minute when the minimum overhead clearance is twenty four (24) inches, while men are loading, unloading, or being transported.~~

~~(16) The space between men riding on a belt line shall not be less than six (6) feet~~].

(15)[~~(17)~~] Loading and unloading stations shall be illuminated properly.

(16)[~~(18)~~] A certified official or some other supervisory personnel appointed by the mine foreman shall supervise all man-trips.

(17)[~~(19)~~] At all mines utilizing track haulage or transportation, there shall be developed a safe and uniform system of traveling through all switch points to prevent collisions. This system shall be designed in a manner which ensures that all persons can determine who has the right of way in all circumstances. Information concerning this system shall be included in annual retraining.

(18)[~~(20)~~] Efficient equipment, either mobile or self-propelled, equipped with sufficient first-aid equipment and supplies, shall be available on all underground sections where men are present to transport injured workers to the surface.

(19)[~~(21)~~] At those mines that do not have a contract or other arrangement for providing ambulance service, a 4-wheel-drive vehicle or other vehicle suitable to the terrain equipped with sufficient first-aid equipment and supplies shall be available to the mines or preparation facilities for the transportation of injured workers. At those mines that have a contract or other arrangement for providing ambulance service, the access road to the mine or preparation facility shall be kept in a condition which is passable by the ambulance vehicle.

(20)[~~(22)~~] The commissioner shall be empowered to draft additional administrative regulations providing for transportation of men when necessary.

Section 16. KRS 352.170 is amended to read as follows:

(1) [~~Within six (6) months after June 16, 1972,~~]All underground mines shall be worked exclusively by the use of approved electric lamps for personal lighting.

(2) [~~Flame safety lamps and approved electric lamps shall be in charge of some person designated by the licensee or superintendent. Two (2) flame safety lamps shall be kept at every coal mine whether the mine liberates explosive gas or~~

~~not, if the mine inspector and the commissioner deem it desirable. ~~]All mine foremen and fire bosses employed in[~~ gassy~~] mines shall[~~, at all times,~~] carry[~~ an~~] approved ***gas detection devices***[~~flame safety lamp or other approved device~~] for the purpose of detecting the presence of explosive and dangerous gases ***and***[~~or~~] deficiencies of oxygen.

(3) No person shall at any time carry into any mine any intoxicants. No person shall at any time enter any underground mine with matches, pipes, cigars, cigarettes, or any device for making lights or fire not authorized or approved, and the licensee shall at frequent intervals search, or cause to be searched, any person entering or about to enter the mine or inside the mine, to prevent the person from taking, carrying, or using the articles therein.

Section 17. KRS 352.241 is amended to read as follows:

(1) Explosives or detonators carried anywhere underground by any person shall be in containers constructed substantially of nonconductive material, maintained in good condition, and kept closed.

(2) When explosives or detonators are transported underground in cars moved by means of a locomotive or rope, or in shuttle cars, they shall be in substantial covered cars or in special substantial covered containers used specifically for transporting detonators or explosives:

(a) The bodies and covers of the cars and containers shall be constructed or lined with nonconductive material;

(b) If explosives and detonators are hauled in the same explosives car or in the same special container, they shall be separated by at least a four (4) inch substantially fastened hardwood partition or the equivalent;

(c) Explosives, detonators, or other explosive items shall not be transported on the same trip with men;

(d) When explosives or detonators are transported in special cars or containers in cars, they shall be hauled in special trips not connected to any other trip. However, this does not prohibit the use of the additional cars as needed to lower a rope trip, or to haul supplies including timbers. Materials so transported shall not project above the top of the car. Exposed highly flammable materials such as[~~ hay,~~] oil[~~,~~] or grease shall not be hauled on the same trip with explosives; and

(e) Explosives or detonators shall not be hauled into or out of a mine within five (5) minutes preceding or following a man trip or any other trip.

(3) Explosives and detonators shall be transported underground by belt only under the following conditions:

(a) In the original and unopened case, in special closed cases constructed of nonconductive material, or in suitable individual containers;

(b) Clearance requirements shall be the same as those for transporting men on belts;

(c) Suitable loading and unloading stations shall be provided; and

(d) Stop controls shall be provided at loading and unloading points, and an attendant shall supervise the loading and unloading of explosives and detonators.

(4) Neither explosives nor detonators shall be transported on flight or shaking conveyors, scrapers, mechanical loading machines, locomotives, cutting machines, ***track drills***[~~drill tracks~~], or any self-propelled mobile equipment. However, this does not prohibit the transportation of explosives or detonators in special substantial covered containers as used in subsection (2) of this section in shuttle cars or in equipment designed especially to transport explosives or detonators.

(5) When supplies of explosives and detonators for use in one (1) or more sections are stored underground, they shall be kept in section boxes or magazines of substantial construction with no metal exposed on the inside, located at least twenty-five (25) feet from roadways and power wires, and in a reasonably dry, well-rock-dusted location protected from falls of roof. In pitching beds, where it is not possible to comply with the location requirement, the boxes shall be placed in niches cut into the solid coal or rock.

(6) When explosives or detonators are stored in the section, they shall be kept preferably in separate boxes or magazines not less than five (5) feet apart; if kept in the same box or magazine, they shall be separated by at least a four (4) inch substantially fastened hardwood partition or the equivalent. Not more than a forty-eight (48) hour supply of explosives or detonators shall be stored underground in any one (1) section in the boxes or magazines.

(7) Explosives and detonators stored near the working faces shall be in separate closed containers, and shall be in a location out of line of blast not less than fifty (50) feet from the face and fifteen (15) feet from any pipeline, powerline, rail, or conveyor; except that if kept in niches in the rib, the distance from pipeline, powerline, rail, or conveyor shall be at least fifteen (15) feet. Explosives and detonators, when stored, shall be separated by a distance of at least ten (10) feet.

(8) Explosives and detonators shall be kept in their containers until immediately before use at the working faces.

(9) Only nonmetallic tools shall be used for opening wooden explosives containers. Tools or other materials shall not be stored with explosives or detonators.

(10) All explosives used underground in underground mines except in sinking shafts and slopes from the surface shall be of the permissible type, specifically designed and manufactured for underground use, and shall be used as follows:

(a) Fired only with electric detonators of proper strength;

(b) Fired with a permissible shot-firing unit of adequate capacity to fire all caps; however, if firing is done from the surface when all men are out of the mine, the firing unit does not need to meet specifications of permissibility;

(c) Where the coal is cut, shots shall not be fired if the blast hole is drilled beyond the limits of the cut;

(d) Boreholes shall be cleaned, and they shall be checked to see that they are placed properly and are of correct depth, in relation to the cut, before being charged;

(e) All blasting charges shall have a burden of at least eighteen (18) inches in all directions if the height of the seam permits;

(f) Boreholes shall be stemmed with at least twenty-four (24) inches of incombustible material, or at least one-half (1/2) of the length of the hole shall be stemmed if the hole is less than four (4) feet in depth unless other permissible stemming devices or methods are used;

(g) Examinations for gas shall be made immediately before firing each shot or group of multiple shots and after blasting is completed;

(h) Shots shall not be fired in any place where methane ***greater than one percent (1%)*** can be detected with ***approved gas detection devices***[~~a flame safety lamp or other approved device~~] when tested at a point not less than twelve (12) inches from the roof, face or rib;

(i) Charges exceeding one and one-half (1-1/2) pounds, but not exceeding three (3) pounds, shall be used only if boreholes are six (6) feet or more in depth, the explosives are charged in a continuous train, with no cartridges deliberately deformed or crushed, with all cartridges in contact with each other and with the end cartridges touching the back of the hole and the stemming respectively. However the three (3) pound limit does not apply to special solid rock work if the mine is evacuated or if approved by the department;

(j) Shots shall be charged and fired by certified shotfirers designated by the mine foreman;

(k) Boreholes shall not be charged while any other work is being done at the face, and the shot or shots shall be fired before any other work is done in the zone of danger from blasting except that which is necessary to safeguard the employees;

(l) Only nonmetallic tamping bars shall be used for charging and tamping boreholes. This does not prohibit the use of a nonmetallic tamping bar with a nonsparking metallic scraper on one (1) end;

(m) The leg wires of electric detonators shall be kept shunted until ready to connect to the firing cable;

(n) Shots shall not be fired from the power of signal circuit while any men are in the mine;

(o) The roof and ribs of working places shall be tested before and after firing each shot or group of multiple shots;

(p) Ample warning shall be given before shots are fired, and care shall be taken to ascertain that all persons are in the clear. Men shall be removed from adjoining working places when there is danger of a shot blowing through;

(q) Mixed types or brands of explosives shall not be charged or fired in any borehole;

(r) Mudcaps (adobes) or other unconfined shots shall not be fired underground in a mine;

(s) Before blasting, the continuity of the blasting circuits shall be tested with a permissible blaster's galvanometer specifically designed for this purpose;

(t) No instantaneous detonator shall be connected in a circuit containing short-period delay detonators. The first charge in a sequence shall be initiated by a short period delay detonator having a nominal delay period of not less than twenty-five (25) milliseconds;

(u) All short period delay detonators shall be wired in series;

(v) Each primer shall be made with care to insure that the detonator is inserted properly and does not protrude from the wrapping and that the leg wires are secured to the cartridge in a manner so that the detonator will not become dislodged in handling and charging;

(w) In making a primer, a powder punch of nonsparking material shall be used. The hole in the cartridge shall be at least one-half (1/2) inch deeper than the detonator used. Rolling the end of a cartridge to receive a detonator is prohibited;

(x) The primer shall be placed in the borehole first pointing outward and the rest of the charge shall be pushed in a continuous train to the back of the borehole to prevent cuttings from getting between the cartridges; and

(y) Suitable clean-up of loose coal and coal dust with adequate rock-dusting or wetting down at the face of each working place shall be completed prior to charging shot holes.

(11) Blasting cables shall be:

(a) Well insulated and as long as may be necessary to permit the shotfirer to get in a safe place around a corner;

(b) Short-circuited at the battery end until ready to attach to the blasting unit;

(c) Staggered as to length or the ends kept well separated when attached to the detonator leg wires; and

(d) Kept clear of power wires and all other possible sources of active or stray electric current.

(12) Where misfires occur with electric detonators, a waiting period of at least five (5) minutes shall elapse before anyone returns to the shot. After the failure, the blasting cable shall be disconnected from the source of power and the battery ends

short-circuited before electric connections are examined.

(13) Explosives shall be removed by firing a separate charge at least two (2) feet away from, and parallel to, the misfired charge or by washing the stemming and the charge from the borehole with water, or by inserting and firing a new primer after the stemming has been washed out.

(14) A very careful search of the working place, and, if necessary, of the blasted material after it reaches the surface shall be made after blasting a misfired hole, to recover any undetonated explosive.

(15) The handling of a misfired shot shall be under the direct supervision of the mine foreman or a competent person designated by him.

[~~(16) Where compressed air is used for blasting or breaking coal, the following shall apply:~~

~~(a) Compressed air shall be conducted from the compressor to within a practical working distance of the face by steel airlines tested to withstand an approximate pressure of twenty thousand (20,000) pounds per square inch;~~

~~(b) Air lines shall be grounded at the compressor and, if possible, at other low-resistance ground connections along the lines, such as at borehole casings. They shall not be connected in any way to tracks, water lines, or other electric power return conductors and shall be suitably insulated where they cross electric wires or underneath the track;~~

~~(c) Shutoff valves shall be installed every one thousand (1,000) feet in all compressed air blasting lines and in all branch lines at a point near the main lines;~~

~~(d) Compressed air blasting lines shall be protected at places where equipment passes over, under, or adjacent to them;~~

~~(e) Steel, copper, or other lines shall not be handled or repaired when air pressure is in the line;~~

~~(f) Air lines shall be examined periodically for kinks or other weaknesses and replaced immediately when defects are found;~~

~~(g) Copper tubing shall be coiled and uncoiled properly. The part of the tubing that is affected by frequent coiling and uncoiling shall be renewed periodically because of the dangers from kinks and crystallization;~~

~~(h) Blowdown valves shall not be less than forty-five (45) feet from the face and shall be around a right angle;~~

~~(i) Holes for compressed-air tubes shall be within the limits of the cut;~~

~~(j) When blowdown valves are opened to discharge the tube, they shall remain open until time to place the tube in the next borehole except where shear-strip or shear-pin tubes are used;~~

~~(k) After breaking down the coal in any one (1) place, the tube shall be disconnected at once from the air line and not reconnected until ready to be used in the next place;~~

~~(l) When a differential-pressure-type tube fails to discharge, the line leading to the tube shall be disconnected at the blowdown valve, and the tube shall be dragged by means of the line to an inactive place, marked with warning signs, and left one (1) hour before any repair work is done thereon; and~~

~~(m) All persons shall be removed from adjoining working places where there is danger of breaking through and shall be at a safe distance around a right angle while coal breaking is in progress.~~]

Section 18. KRS 352.280 is amended to read as follows:

In all mines the licensee or superintendent shall employ one (1) or more[~~ certified fire bosses or other~~] properly certified persons. ***A***[~~The fire boss or other~~] properly certified person shall examine carefully within three (3) hours before each shift enters the mine, every working place, all places adjacent to live workings, every roadway where persons are required to work or travel, all abandoned panels on the intake, every ***set of seals***[~~seal~~] on the intake, and all roof falls near active workings on the intake and on the working sections. Before proceeding with the examination he shall see that the air current is traveling its proper course. In making the examination he shall use[~~ an~~] approved ***gas detection devices***[~~safety lamp or other approved device~~]. ***A***[~~The fire boss or other~~] properly certified person shall examine for all dangers in all portions of the mines under his charge, and after examination he shall leave at or as close as possible to the face of every place examined the date and time of the examination and his initials as evidence that he has performed his duty. He shall also examine the entrances to all worked-out and abandoned portions adjacent to the roadways and working places under his charge where explosive gas is likely to accumulate, and he shall place a danger signal across the entrance to every place where explosive gas is discovered or where immediate danger is found to exist from any other cause. The signal shall be sufficient warning for persons not to enter. When the mine is idle and workmen are required to go into the mine, the section, portion, or part of the mine entered must be inspected by a[~~ fire boss or other~~] properly certified person within three (3) hours before the workmen enter. Each week, ***a properly***[~~the fire boss or some other~~] certified person designated by the mine foreman shall examine each ***set of seals***[~~seal~~] on the return, all ***designated***[~~main~~] intake and return entries, and all escapeways.

Section 19. KRS 352.371 is amended to read as follows:

Whenever any working place approaches within fifty (50) feet of abandoned areas in the mine as shown by surveys made and certified by a registered engineer, or within two hundred (200) feet of any other abandoned areas of the mine which cannot be inspected and which may contain dangerous accumulations of water or gas, or within two hundred (200) feet of any workings of an adjacent mine, a borehole or boreholes shall be drilled to a distance of at least twenty (20) feet in advance of the working face of the working place and shall be continually maintained to a distance of at least ten (10) feet in advance of the advancing working face. When there is more than one (1) borehole, they shall be drilled sufficiently close to each other to insure that the advancing working face will not accidentally hole through into abandoned areas or adjacent mines. Boreholes shall also be drilled not more than eight (8) feet apart in the rib of the working place to a distance of at least twenty (20) feet and at an angle of forty-five (45) degrees before additional cuts are taken. Rib holes shall be drilled in one (1) or both ribs of the working place as may be necessary for adequate protection of miners in such place. ***Alternative plans which afford equal or greater protection may be approved by the commissioner or his authorized representative.***

Section 20. KRS 352.400 is amended to read as follows:

(1) The licensee of any mine may adopt special rules consistent with KRS Chapter 351 and this chapter for the government and operation of his mine, and covering all the work pertaining thereto in and out of the mine. Before the rules are put into effect they shall be approved in writing by the commissioner.~~[The rules, when adopted and approved in writing by the commissioner, shall be printed on cardboard in the language spoken by seventy-five percent (75%) or more of the employees at the mine, and shall be posted on a bulletin board or some other conspicuous place about the mine where they may be seen by the employees at the mine. Before the rules are so adopted, approved and posted, the representative of the employees at the mine shall be given a copy thereof, and be deemed to have agreed thereto, before the employees are required to obey the rules.]~~

(2) The mine rules shall be printed in a form prescribed by the commissioner.

(3) The licensee shall furnish each employee a copy of the mine rules, and each employee shall sign a statement indicating his receipt of a copy of the rules and his agreement to comply with them.

(4) The mine rules shall be included in the subjects taught during annual retraining of the mine's employees.

Section 21. KRS 352.410 is amended to read as follows:

(1) Each superintendent shall, on behalf and at the expense of the ***licensee***~~[operator]~~, keep on hand at or within convenient distance of the mine, not to exceed 500 feet, a sufficient quantity of all materials and supplies required to preserve the safety of employees, as ordered by the mine foreman and required by law. If the superintendent cannot procure the necessary materials or supplies, he shall at once notify the mine foreman, who shall withdraw the men from the mine until the materials or supplies are received.

(2) The superintendent shall, at least once each week, read and examine carefully and countersign all reports entered in the mine record book of the mine foreman.

(3) The ***licensee***~~[operator]~~ or superintendent shall cooperate with the mine foreman and other officials in the fulfillment of their duties under KRS Chapter 351 and this chapter, and shall direct that the mine foreman and all other employees under him comply with the law, especially when his attention is called by the mine inspector or by the commissioner to any violations of the laws.

(4) The superintendent shall keep on hand at the mine a supply of printed rules, notices, and record books required by this chapter. The superintendent shall see that rules, notices, and record books are delivered to the proper persons at the mine and are properly cared for, and that the rules and notices are posted in conspicuous places at or near the entrance to the mine and kept legible.

Section 22. KRS 352.420 is amended to read as follows:

(1) The operator or superintendent of each mine shall give the commissioner at least ten (10) days' notice of the following:
    (a) Abandonment of a mine;
    (b) Resumption of work in a mine after an abandonment or discontinuance for a period of two (2) weeks or more;
    (c) Change in the operator or name of a mine.

(2) Each mine shall be inspected and approved by the department before operations are resumed after an abandonment~~[or discontinuance for two (2) weeks or more]~~.

Section 23. KRS 352.450 is amended to read as follows:

(1) The operator or superintendent of each underground mine shall annually make or cause to be made a map of the workings of the mine which is accurate and of professional quality, on a scale of not less than one hundred (100) and not more than five hundred (500) feet to the inch, showing the area mined and the forms of the excavations up to January 1, together with the location and connection of the property and mineral lease lines of all adjoining lands within one thousand (1,000) feet of the excavations and, marked on each tract, the name of each owner or lessee of adjoining lands and of mine property for which the map is being filed. Such map shall also show:
    (a) The proposed general plan of mining for the next twelve (12) months;
    (b) All pillared, worked-out, and abandoned areas;
    (c) Entries and aircourses with the direction of airflow indicated by arrows;
    (d) Dip of the coal bed;
    (e) Escapeways;
    (f) Major roof falls;

(g) Any worked-out areas within one thousand (1,000) feet of the projections proposed for the next twelve (12) months, designating whether active, abandoned or pillared, and showing precautions to be taken if mines are projected towards old workings which cannot be examined;

(h) Mines above or below;

(i) Water pools above;

(j) Location of all known oil and gas wells (both producing and abandoned) within the area required to be mapped, as well as owners and well numbers when possible;

(k) Such map shall identify those areas of the mine which are inaccessible or cannot be entered safely and on which no information is available;

(l) The name and address of the mine, the mine number, seam, seam thickness;

(m) The scale and orientation of the map, longitude and latitude, and corresponding USGS 7.5 minute quadrangle map;

(n) The property or boundary lines of the mine, indicating the twenty-five (25) foot barrier required by KRS 352.490 between projections and property lines;

(o) All known drill holes that penetrate the coal bed being mined;

(p) All shaft, slope, drift, and tunnel openings and auger and strip mined areas of the coal bed being mined;

(q) The location of all surface mine ventilation fans; the location may be designated on the mine map by symbols;

(r) The location of railroad tracks and public highways leading to the mine, and mine buildings of a permanent nature with identifying names shown, and water sheds near openings of the mine;

(s) The location and description of at least two (2) permanent base line points coordinated with the underground and surface mine traverses, and the location and description of at least two (2) permanent elevation bench marks used in connection with establishing or referencing mine elevation surveys, and any other identifying permanent landmarks;

(t) The location and elevation of any body of water dammed in the mine or held back in any portion of the mine; provided, however, such bodies of water may be shown on overlays or tracings attached to the mine maps used to show contour lines;

(u) The elevations of tops and bottoms of shafts and slopes, and the floor at the entrance to drift and tunnel openings;

(v) The elevation of the floor at intervals of not more than two hundred (200) feet in:

1. At least one (1) entry of each working section, main entry and cross entries;
2. The last line of open crosscuts of each working section, and main and cross entries before such sections and main and cross entries are abandoned;
3. Rooms advancing toward or adjacent to property or boundary lines or adjacent mines; and

(w) Contour lines passing through whole number elevations of the coal bed being mined. The spacing of such lines shall not exceed ten (10) foot elevation levels, except that a broader spacing of contour lines may be approved by the commissioner or his authorized representative for steeply-pitching coal beds. Contour lines may be placed on overlays or tracings attached to mine maps.

The operator or superintendent shall deposit a true copy of the map with ***his license application to*** the commissioner within forty-five (45) days after January 1, and another copy of the map shall be kept at the office of the mine. A copy shall also be furnished the district office of the department.

(2) After making and filing the map with the commissioner, the operator or superintendent thereafter is only required to file annually with the commissioner, within the time specified, such additional map and statement as is necessary to show the progress of the workings, the amount and forms of excavations and the property lines within one thousand (1,000) feet of the excavations extended since the date of the preceding map. The commissioner shall annually, before January 1, give notice that the map is required.

(3) The commissioner may require any operator or superintendent to furnish a map other than those required in subsections (1) and (2) of this section or of a surface mine, and the operator or superintendent shall immediately comply with the requirement.

(4) The mine inspector shall have the authority to stop production at the mine of any operator who does not furnish within thirty (30) days of notification of specific deficiencies a map which fully complies with the requirements of this section.

Section 24. KRS 352.480 is amended to read as follows:

(1) The commissioner shall, upon the application therefor in ***written***~~[the]~~ form~~[of an affidavit]~~ by any ***interested party***~~[licensee, owner, lessee, or operator]~~, make or cause to be made, at the expense of the applicant, a duplicate of any ***final or abandoned mine*** map on file ***with the department***~~[in his office of any mine owned, leased or operated by the applicant]~~.

(2) No copy of ***any***~~[such a]~~ map ***of an active mine*** shall be made without the consent of the licensee, owner, lessee, or operator, except that when the owner of any land adjacent to or near the land of the licensee, owner, lessee, or operator

files an affidavit with the commissioner showing ownership of the adjacent or nearby property, and alleging that he believes that the licensee, owner, lessee, or operator is encroaching upon or mining on his property, the commissioner shall cause to be furnished to the affiant, at the expense of the affiant, a duplicate of the map filed by the licensee, owner, operator, or lessee.

(3) When any underground mine is worked out or is about to be abandoned or indefinitely closed, the licensee shall make or cause to be made a final ***map***[~~survey~~] of the mine, to show the entire worked-out area at the time the mine was abandoned or closed. ***A certified copy of the mine workings, on a scale of not less than one hundred (100) and not more than five hundred (500) feet to the inch***[~~The results shall be indicated on the map of the mine previously made, and a copy of the survey~~] shall be filed with the commissioner.

(4) When satisfactory evidence, in the form of an affidavit, is furnished by any person planning to open or reopen a mine, a duplicate copy of a map of any abandoned mine which might affect the safety of the men to be employed in the proposed mine may be furnished the applicant upon request to the commissioner. The duplicate copy of the map shall be made at the expense of the applicant.

HB 809, AN ACT relating to access for the abatement of a surface mining violation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.280 is amended to read as follows:

(1) ***(a)*** If a permittee or operator has been issued a notice or order directing abatement of a violation on the basis of an imminent danger to health and safety of the public or significant imminent environmental harm, ***and the violation involves an order of cessation and immediate compliance or an order to abate and alleviate in which the cabinet directs the permittee or operator to begin immediate abatement of the violation,*** and the notice or order requires access to property for which the permittee or operator does not have the legal right of entry necessary in order to abate that violation, and the owner or legal occupant of that property has refused access, an easement of necessity is recognized on behalf of the permittee or operator for the limited purpose of abating that violation. ***The easement of necessity becomes effective, and the permittee or operator is authorized to enter the property to undertake immediate action to abate the violation if he or she concurrently:***

1. Provides to the property owner or leaseholder a copy of the cabinet's order;

2. Provides to the property owner or leaseholder and cabinet an affidavit that he or she has been denied access to the property; and

3. Provides to the property owner or leaseholder a statement that he or she, the permittee or operator, will obtain an appraisal completed by a certified real estate appraiser or other qualified appraiser of the damages to the property, including loss of use, that have resulted from the violation, and those that are likely to occur to the property when the permittee or operator enters the property in order to abate the violation, that the appraisal will be completed and provided to the property owner or leaseholder within three (3) days of entry of the operator or permittee, and that he or she will pay the property owner or leaseholder the amount of the damages in the permittee or operator's appraisal at that time.

(b) Following the effective date of the easement of necessity, the following procedure shall be followed with respect to the appraisal of the damages that have resulted from the violation, and those that are likely to occur to the property when the permittee or operator enters the property in order to abate the violation:

1. The permittee or operator shall have an appraiser on the site and have his or her appraisal completed and submitted to the property owner or leaseholder within three (3) days of entry on the property by the operator or permittee;

2. The property owner or leaseholder shall accept or reject this appraisal in writing within three (3) days of receipt of the completed appraisal;

3. If the property owner or leaseholder rejects this appraisal, he or she may hire a certified real estate appraiser or other qualified appraiser to appraise the damages, including loss of use, that have resulted from the violation, and those that are likely to occur to the property if the permittee or operator is allowed to enter the property in order to abate the violation. Upon receipt of the invoice the permittee or operator shall pay for the property owner or leaseholder's appraisal up to the amount he or she paid for his or her own appraisal; and

4. If the property owner or leaseholder has the appraisal done, he or she shall have it completed and provided to the permittee or operator within seven (7) days of receipt of the permittee or operator's completed appraisal.

(c) If the property owner or leaseholder has an appraisal done, and if, based on his or her appraisal and the permittee or operator's appraisal, an agreement is not reached on the appraised damages, the permittee or operator shall pay the property owner or leaseholder the amount of the permittee or operator's appraisal damages, and if the property owner or leaseholder's appraisal damages are for more than the permittee or operator's, the permittee or operator shall pay the difference to the circuit clerk, in the county in which the

majority of the property lies, to be placed in an interest-bearing account in a bank until final resolution of the matter by agreement or court or jury judgment. If the property owner or leaseholder is granted award of some or all of the difference, he or she shall also receive the interest on that portion of the difference.

(d) If the property owner or leaseholder does not accept or reject the permittee or operator's appraisal and offer of funds for damages, the operator or permittee shall pay the appraised damages to the Circuit Clerk within three (3) business days of the nonacceptance. These funds shall be placed in an interest-bearing account in a bank until resolution of the matter by agreement or court or jury judgment.

(2) *If a permittee or operator has been issued a notice or order directing abatement of a violation other than one described in subsection (1) of this section, and the notice or order requires access to property for which the permittee or operator does not have the legal right of entry necessary in order to abate that violation, and the owner or legal occupant of that property has refused access, an easement of necessity is recognized on behalf of the permittee or operator, for the limited purpose of allowing a certified real estate appraiser or other qualified appraiser, chosen by the permittee or operator, to enter upon the property to which the owner or legal occupant has refused access in order for the appraiser to appraise the damages, including loss of use, that have resulted from the violation, and those that are likely to occur to the property if the permittee or operator is allowed to enter the property in order to abate the violation.*

(3) (a) The easement for the limited purpose of allowing the appraisal shall be recognized and take effect when the operator or permittee:

1. Provides to the property owner or leaseholder a copy of the cabinet's order;

2. Provides to the property owner or leaseholder and cabinet a plan of remedial measures to abate the violation;

3. Provides to the property owner or leaseholder and cabinet an affidavit that he or she has been denied access to the property; and

4. Provides to the property owner or leaseholder a statement that he or she, the permittee or operator, will within seven (7) days of entry of the appraiser obtain an appraisal, by a certified real estate appraiser or other qualified appraiser, of the damages to the property including loss of use, that have resulted from the violation, and those that are likely to occur to the property when the permittee or operator enters the property in order to abate the violation, and that upon completion of the appraisal he or she will provide the appraisal to the property owner or leaseholder and pay the property owner or leaseholder the amount of the appraisal.

(b) When the easement takes effect, the property owner or leaseholder shall allow access for the permittee or operator's certified real estate appraiser or other qualified appraiser to conduct the appraisal.

(4) Following the effective date of the easement of necessity, the following procedure shall be followed with respect to the appraisal of the damages to the property that have resulted from the violation and those that are likely to occur, under this subsection:

(a) The permittee or operator shall have an appraiser on the site and have his or her appraisal completed and submitted to the property owner or leaseholder within seven (7) days of the entry of the appraiser on the property.

(b) The property owner or leaseholder shall accept or reject this appraisal within three (3) days of receipt of the completed appraisal;

(c) If the property owner or leaseholder rejects this appraisal, he or she may hire a certified real estate appraiser or other qualified appraiser to appraise the damages to the property, including loss of use, that have resulted from the violation and those that are likely to occur to the property if the permittee or operator is allowed to enter the property in order to abate the violation. Upon receipt of the invoice, the permittee or operator shall pay for the property owner or leaseholder's appraisal up to the amount he or she paid for his or her own appraisal; and

(d) If the property owner or leaseholder has the appraisal done, he or she shall have it completed and provided to the permittee or operator within seven (7) days of receipt of the permittee or operator's appraisal.

(5) (a) If the property owner or leaseholder has an appraisal done, and if, based on his or her appraisal and the permittee or operator's appraisal, an agreement is not reached on the appraised damages, the permittee or operator shall pay the property owner or leaseholder the amount of the permittee or operator's appraisal damages.

(b) If the property owner or leaseholder's appraisal damages are for more than the permittee or operator's, the permittee or operator shall pay the difference to the circuit clerk.

(c) The difference shall be placed in an interest-bearing account in a bank until final resolution of the matter by agreement or court or jury judgment.

(d) If the property owner or leaseholder is granted award of some or all of the difference, he or she shall also receive the interest on that portion of the difference.

(6) If the property owner or leaseholder does not accept or reject the permittee or operator's appraisal and offer of funds for damages, the operator or permittee shall pay the appraised damages to the circuit clerk within three (3) business

days. These funds shall be placed in an interest-bearing account in a bank until resolution of the matter by agreement or court or jury judgment.

(7) ***In cases under subsection (2) of this section, when the procedures in subsections (4) and (5)(a) and (b) of this section, or subsections (4)(a) and (b) and (6) of this section, have been satisfied, the permittee or operator may enter the property to abate the violation.***

[~~(2) If a violation other than one described in subsection (1) cannot be abated because the permittee or operator responsible for abatement of the violation has been denied access to the land necessary to allow abatement of the violation, the cabinet shall terminate the notice of noncompliance or cessation order issued for the violation, if the following conditions are met:~~

~~(a) Prior to terminating a notice of noncompliance or cessation order under this subsection, and within thirty (30) days of a request by a permittee or operator to terminate a violation based on a lack of access, the cabinet shall verify the denial of access and advise the surface owners of record and the legal occupants of the affected land of the consequences of refusing to allow access to the property for the purpose of enabling abatement of the violation; and~~

~~(b) The cabinet shall explain the consequences by certified mail, return receipt requested, and shall make a good faith effort to notify all owners of interest and legal occupants verbally, that:~~

~~1. Refusal to allow access to the property will result in termination of the violation as uncorrectable;~~

~~2. If there is damage that occurs to public or private property due to the uncorrected violation condition on the property, that the property owner may also be responsible under law for any property damage to private or public property that may result from the unreclaimed condition; and~~

~~3. While the landowner may seek damages or injunctive relief in an action against the permittee or operator, the refusal to grant access in order to allow abatement of the violation shall result in the state terminating the requirement that the permittee or operator undertake work necessary for abatement of the violation, and that while penalties may be assessed, the performance bond shall not be forfeited on the basis of the violation.~~

~~(3) The cabinet shall not terminate any notice of noncompliance or cessation order under this section if the cabinet determines that the denial of access necessary to abate the violation has been procured through collusion between the permittee or operator and the landowner or legal occupant of the affected land who is refusing to allow the necessary access. "Collusion," for the purpose of this section, includes any agreement, understanding, or contract by which the landowner refuses access to the property in return for any consideration, whether involving money or otherwise. Any act of collusion shall subject the permittee or operator to penalties under this chapter for willful and knowing refusal to correct the violation.~~

~~(4) No noncompliance or cessation order may be terminated under this section where there is any common ownership or control between the permittee or operator and the landowner or legal occupant. No noncompliance or cessation order may be terminated under this section where there is any other legal relationship between the permittee or operator and the landowner or legal occupant, except where a court of competent jurisdiction has determined that the legal relationship does not provide for a right of access.~~

~~(5) Where a violation may impact public or private property other than land for which access has been denied, the cabinet shall direct abatement measures to be taken by the permittee or operator to prevent damage to those lands for which access has not been denied.~~

~~(6) Termination of a notice of noncompliance or cessation order under this section shall not affect the assessment of a civil penalty for the violation.~~]

(8) Nothing in this section shall affect any person's right for damages or injunctive relief.

Section 2. Whereas abatement of violations can be delayed unless an easement of necessity is obtained, and those delays can have negative effects on a permittee or operator, and on the environment, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Amendment No. 1 to **HB 809** is as follows:

On page 1, line 14, 16, 18 and 25; and

On page 2, lines 2, 11, 13, 15, 23, and 27; and

On page 3, lines 3, 9, and 12; and

on page 4, lines 5, 7, 9, 11, twice on line 19, and on line 21; and

On page 5, lines 3, 5, 7, 15, 18, and 21; and

On page 6, lines 1 and 4;

by deleting "***leaseholder***" and replacing it with "***legal occupant***";

On page 2, line 21; and
On page 3, line 4;
On page 5, lines 13 and 23;
by deleting "*leaseholder's*" and replacing it with "*legal occupant's*"

The Committee on State Government reported **HB 568,** with Committee Substitute attached thereto, **HB 717, HB 723, HB 728, HB 749, HB 759,** with Committee Substitute attached thereto, **HB 775,** and **HCR 184,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 568, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO READ AS FOLLOWS:

(1) Full-time sworn officers of the safety and security departments of the state universities may be transferred to the Kentucky Employees Retirement System.

(2) Sworn officers of the safety and security departments of the state universities who participate in the Kentucky Employees Retirement System shall be considered to be in a hazardous position and shall be covered as provided in KRS 61.592.

(3) The retirement system shall assess the individual officer, and each individual officer shall pay, the actuarial value of the service transferred and the actuarial value shall include the additional costs of converting the officer's transferred service to hazardous service, but nothing shall preclude the state university from paying such actuarial values voluntarily if deemed appropriate by the university.

The Committee Substitute to **HB 568** is as follows:

HB 568, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO READ AS FOLLOWS:

(1) Full-time sworn officers of the safety and security departments of the state universities may be transferred to the Kentucky Employees Retirement System.

(2) The retirement system shall assess the individual officer, and each individual officer shall pay, the actuarial value of the service transferred, but nothing shall preclude the state university from paying such actuarial values voluntarily if deemed appropriate by the university.

HB 717, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems who has been refunded his accumulated contributions under the provisions of KRS 16.645(22), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system. If the participating employee dies before regaining lost service credit, the employee's beneficiary, as designated according to the requirements of the employee's retirement system, may regain the credit by paying the amount refunded with interest at a rate determined by the board of the respective retirement system. Thereafter the beneficiary shall be entitled to the benefits that are payable based upon the deceased employee's total service credit. The provisions of KRS 161.470 shall be met in order to regain the credit in the Teachers' Retirement System. KRS 21.460 shall govern with respect to regaining credit in the Judicial Retirement Plan or Legislators' Retirement Plan. The beneficiary shall make the payment within one (1) year of the date of the employee's death. The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(3) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(4) An employee participating in one (1) of the state-administered retirement systems may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments. Effective August 1, 1988, each employee of the Kentucky Racing Commission who was employed by the racing commission on the date that agency first participated in the Kentucky Employees Retirement System, whether or not the employee was eligible to participate in the retirement system on that date, shall receive current service credit for all employment with the racing commission from July 1, 1956, to the date the employee first began participating in the retirement system. The cost of the service credit shall be paid at the time of each member's retirement by the racing commission and shall be credited to the retirement allowance account.

(5) (a) An employee participating in one (1) of the state-administered retirement systems may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(b) An employee participating in the Kentucky Employees Retirement System or the County Employees Retirement System, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may obtain credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system in which he participates the full cost of the service credit purchased, as determined by the board's actuary. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.

(6) After August 1, 2000, service credit obtained under the subsections of this section which do not require the employee to have a minimum number of years of service credit to be eligible to make a purchase shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of the state-administered retirement systems. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 16.582 or 61.600.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by a defined benefit retirement program, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the County Employees Retirement System, the Kentucky Employees Retirement System, or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the County Employees, Kentucky Employees Retirement System, or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the employee may pay by increments.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) Employees who served as assistants to officers and employees of the General Assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960, if the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) (a) Effective August 1, 1988, any employee participating in one (1) of the state-administered retirement systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4).

(b) Any noncertified employee of a school board may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 78.610(4).

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may obtain credit for prior or current service for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, by paying to the respective retirement system a delayed contribution payment. The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved maternity leave, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by

making installment payments in lieu of a lump-sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. Once multiple service purchases have been combined in an installment purchase, the employee may not separate the purchases or pay a portion of one (1) of the purchases. The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.

(b) Twelve (12) consecutive monthly installment payments shall be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).

(c) The employee shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee elects to stop the installment payments, dies, retires, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under paragraph (e) or (f) of this subsection and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(h) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by transferring funds pursuant to the rules in 26 U.S.C. sec. 401(a)(31) directly from a retirement plan or a deferred compensation arrangement maintained by his employer which is a qualified plan pursuant to 26 U.S.C. sec. 401(a). Service credit may also be purchased by a rollover of funds from a qualified retirement plan pursuant to the rules specified in 26 U.S.C. sec. 402(c). The Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in 26 U.S.C. secs. 402(c) and 401(a)(31). The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(17) After August 1, 1998, any employee participating in one (1) of the state-administered retirement systems who is age sixty-five (65) or older and has forty-eight (48) months' service credit in the Kentucky Employees Retirement System or the County Employees Retirement System or, if younger, who has sixty (60) months' service credit in the Kentucky Employees Retirement System or the County Employees Retirement System may purchase credit in the system in which the employee has the service credit for up to ten (10) years service in a regular full-time position that was credited to a state or local government-administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay the full cost of the service as determined by the system. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible to the extent permitted under subsection (16)(h) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

(18) After August 1, 1998, any employee participating in one (1) of the state-administered retirement systems, who has sixty (60) or more months of service in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System, may purchase credit in the system in which the employee has the sixty (60) months of service credit for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the

service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay the full cost of the service credit as determined by the system. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection (16)(h) of this section and to the extent permitted by the other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

(19) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.

(20) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65), or at least sixty (60) months' service if under age sixty-five (65), and who was formerly employed in a regional community mental health and mental retardation services program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may obtain credit for the period of his service in the regional community mental health and mental retardation program, by paying to the state retirement system in which he participates the full cost of the service credit purchased, as determined by the system. Payment to one (1) of the retirement systems administered by the Kentucky Retirement Systems may be made by lump sum or in increments.

(21) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65), who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. The cost of the service shall be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4).

(22) Any employee participating in one (1) of the state-administered retirement systems on June 30, 2000, may obtain credit for subsequent service with a parted employer from the Commonwealth operating for the purposes of KRS 163.475, by paying to the respective retirement system a delayed contribution payment if the respective retirement system receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall be deposited to the individual member's account. The delayed contribution payment shall not be picked up by the employer as described in KRS 61.560(4).

(23) Any employee participating in the County Employees Retirement System who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may purchase service credit for service with a city, county, or joint city-county planning commission, if that service was not covered by a state-administered retirement system. Notwithstanding any statute to the contrary, the employee shall be entitled to a full month of service for each month or portion of month that the employee occupied the position whether or not the employee would have qualified, at the time of planning commission service, for the service under KRS 6.525. The employee shall pay to the retirement system the full cost of the service credit purchased, as determined by the board's actuary. The payment shall not be picked up, as described in KRS 78.610(4), by the employer and shall be deposited to the member's account. Payment may be by lump sum or in increments. The employee may obtain credit for service with a city, county, or joint city-county planning commission only if the Kentucky Retirement Systems receives a favorable letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor.

(24) (a) Any member or retired member of one (1) of the retirement systems administered by the Kentucky Retirement Systems who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or KRS 78.615 may obtain credit for the service by paying the employee contributions due within six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions are received by the retirement system.

(b) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions are received by the retirement system. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(25) Any employee participating in one (1) of the state-administered retirement systems may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the former public agency or political subdivision has merged with or been taken over by a participating department or county. The

cost of the service shall be determined as a delayed contribution payment for the respective retirement system. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or KRS 78.610(4), by the employer.

(26) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems on or after August 1, 1998, who has at least two hundred forty (240) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit which is not otherwise purchasable under any of the provisions of KRS 16.510 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852. The purchase price for the retirement service credit shall be calculated and paid for based on the full actuarial cost as determined by the system. The payment shall not be picked up, as described in KRS 16.545(4), KRS 61.560(4), KRS 78.610(4), by the employer, and the employee's payment shall be paid into the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by increments.

(27) An employee participating in one (1) of the state-administered retirement systems, who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), may obtain credit in the County Employees Retirement System for the period of that employee's service with a community action agency created under KRS 273.405 to 273.453 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system the full actuarial cost of the service credit purchased. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or 78.610(4), by the employer.

(28) After August 1, 2002, any employee participating in one (1) of the state- administered retirement systems who has sixty (60) or more months of service in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System, may purchase service credit for service earned in a regular full-time hazardous position, if the service can be certified as hazardous under KRS 61.592, with an urban-county government that was eligible to participate under KRS 78.530 but that did not participate and if the member is not eligible for a retirement benefit for the same period of service from any other defined benefit plan. The employee shall pay the full cost of the service credit as determined by the system. The payment shall not be picked up by the employer, as described in KRS 16.545(4), 61.560(4), and 78.610(4), and the employee's payment shall be deposited in the individual member's contribution account in the appropriate retirement system. Payments by the member may be by lump sum or in increments.

HB 723, AN ACT to revise and correct the Kentucky Revised Statutes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 24A.120 is amended to read as follows:

(1) District Court shall have exclusive jurisdiction in:

(a) Civil cases in which the amount in controversy does not exceed four thousand dollars ($4,000), exclusive of interest and costs, except matters affecting title to real estate and matters of equity; however, nothing herein shall prohibit execution levy on real estate in enforcement of judgment of District Court;

(b) Matters involving probate, except matters contested in an adversary proceeding. Such adversary proceeding shall be filed in Circuit Court in accordance with the Kentucky Rules of Civil Procedure and shall not be considered an appeal; and

(c) Matters not provided for by statute to be commenced in Circuit Court shall be deemed to be nonadversarial within the meaning of ***paragraph (b)***[~~subsection (2)~~] of this ***subsection***[~~section~~] and therefore are within the jurisdiction of the District Court.

(2) Whenever the Chief Justice, by order pursuant to Section 110(5)(b) of the Constitution of Kentucky, or the Supreme Court, pursuant to Section 116 of the Constitution of Kentucky, establishes a family court within a judicial circuit, the District Court shall exercise concurrent jurisdiction, or as the Chief Justice or the Supreme Court may direct, exclusive jurisdiction in all matters assigned to the family court, notwithstanding any other statute relating to the subject matter jurisdiction of the Circuit and District Courts.

Section 2. KRS 45A.100 is amended to read as follows:

(1) Procurements may be made in accordance with small purchase administrative regulations promulgated by the secretary of the Finance and Administration Cabinet, pursuant to KRS Chapter 13A, as follows:

(a) Up to ten thousand dollars ($10,000) per project for construction and one thousand dollars ($1,000) for purchases by any state governmental body, except for those state administrative bodies specified in ***paragraph***[~~paragraphs~~] (b)[~~ and (c)~~] of this subsection; and

(b) Up to forty thousand dollars ($40,000) per project for construction or purchases by the Finance and Administration Cabinet, state institutions of higher education, and the legislative branch of government.

(2) Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section. At least every two (2) years, the secretary shall review the prevailing costs of labor and materials and may make recommendations

to the next regular session of the General Assembly for the revision of the then current maximum small purchase amount as justified by intervening changes in the cost of labor and materials.

(3) The secretary of the Finance and Administration Cabinet may grant to any state agency with a justifiable need a delegation of small purchasing authority which exceeds the agency's small purchase limit provided in subsection (1) of this section. Delegations of small purchasing authority shall be granted or revoked by the secretary of the Finance and Administration Cabinet, in accordance with administrative regulations promulgated by the cabinet pursuant to KRS Chapter 13A. These administrative regulations shall establish, at a minimum, the criteria for granting and revoking delegations of small purchasing authority, including the requesting agency's past compliance with purchasing regulations, the level of training of the agency's purchasing staff, and the extent to which the agency utilizes the Kentucky Automated Purchasing System. The administrative regulations may permit the secretary of the Finance and Administration Cabinet to delegate small purchase procurements up to the maximum amount specified in subsection (1)(b) of this section.

Section 3. KRS 311.669 is amended to read as follows:

(1) The provisions of KRS 311.665 to 311.669 shall not apply to the use of an AED by:

- (a) Physicians, podiatrists, or osteopaths licensed under KRS Chapter 311 or chiropractors licensed under KRS Chapter 312;
- (b) Physician assistants as defined in KRS 311.550;
- (c) Registered nurses, practical nurses, or advanced registered nurse practitioners licensed under KRS Chapter 314;
- (d) Dentists licensed under KRS Chapter 313; or
- (e) Paramedics certified under KRS 311.654, or emergency medical technicians certified under KRS *311.6541*[~~211.964~~].

(2) Nothing in this section shall preclude the licensing boards referred to in subsection (1) of this section from requiring continuing education or training on the use of an AED.

Section 4. Nothing in this Act shall be construed under KRS 7.123(4) as appearing to effect any substantive change in the statute law of Kentucky, and the actions contained within this Act shall not operate under KRS 446.250 or 446.260 to defeat any amendments in other Acts of this 2002 Regular Session of the Kentucky General Assembly to the statutes contained in this Act.

HB 728, AN ACT relating to administrative regulations and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds that certain administrative regulations, as evidenced by the records of the Legislative Research Commission, including, but not limited to, the Kentucky Administrative Regulations Service and the Administrative Register of Kentucky, were found deficient on or after July 15, 1988, and either expired prior to or upon adjournment of the 2001 General Assembly, or were scheduled to expire upon adjournment of the 2002 Regular Session of the General Assembly, under the provisions of KRS Chapter 13A as existing before the issuance of the Opinion and Order of the Franklin Circuit Court in Patton v. Sherman et al., Civil Action No. 01-CI-00660, entered January 11, 2002.

(2) Contrary provisions of any section of the Kentucky Revised Statutes notwithstanding, the administrative regulations identified in subsection (1) of this section shall be null, void, and unenforceable, as follows:

- *(a) Those administrative regulations identified in subsection (1) of this section which expired prior to or upon adjournment of the 2001 Regular Session of the General Assembly under the provisions of KRS Chapter 13A existing before the issuance of the court order referenced in subsection (1) of this section shall be null, void, and unenforceable as of their recorded date of expiration, according to the records of the Legislative Research Commission. Administrative bodies and regulated persons and entities have relied on the assumption that these administrative regulations have previously expired; therefore, this subsection shall have the retroactive effect necessary to implement its provisions; and*
- *(b) Those administrative regulations identified in subsection (1) of this section due to expire upon adjournment of the 2002 Regular Session of the General Assembly, under the provisions of KRS Chapter 13A existing before the issuance of the court order referenced in subsection (1) of this section, shall be null, void, and unenforceable upon the effective date of this Act.*

(3) Contrary provisions of any section of the Kentucky Revised Statutes notwithstanding, an administrative body shall be prohibited from promulgating an administrative regulation that is identical to or substantially the same as any administrative regulation identified in subsection (1) of this section for a period beginning on January 11, 2002, and concluding upon adjournment of the 2003 Regular Session of the General Assembly. This subsection shall have the retroactive effect necessary to implement its provisions.

(4) The Legislative Research Commission may file an action in the Franklin Circuit Court for judicial review to determine if any administrative regulation is lawfully promulgated in accordance with the laws and Constitution of the

Commonwealth of Kentucky.

Section 2. A list of the administrative regulations identified in subsection (1) of Section 1 of this Act shall be available to the public on the effective date of this Act, in the office of the Legislative Research Commission's Regulations Compiler.

Section 3. Whereas it is essential for the public and the administrative agencies of state government that the status of previously promulgated administrative regulations be clearly established, so that the regulated activities of citizens and the regulatory actions of agencies can proceed efficiently and within the law, an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor, or upon its otherwise becoming a law.

HB 749, AN ACT designating the Louisville Science Center as the State Science Center of Kentucky.

WHEREAS, the Louisville Science Center is a nonprofit educational institution dedicated to improving the public's understand of mathematics, science, and technology through interactive exhibits, IMAX films, and educational programs; and

WHEREAS, the Louisville Science Center houses the only IMAX Theatre in Kentucky and serves more than 550,000 people annually, introducing them to the excitement and wonders of science in an engaging and interactive environment; and

WHEREAS, the Louisville Science Center has recently received recognition from several local, regional, and national organizations; and

WHEREAS, for example, in September 2001, the Louisville Science Center was recognized by the Giant Screen Theater Association for having the Best Film Launch by a Theater for the IMAX film, *Michael Jordan to the Max*; and

WHEREAS, in September 2001, the Center for Nonprofit Excellence presented the Science Center with the 2001 Pyramid Award for "The Art of Vision" in recognition of its successful implementation of its 1992 strategic plan; and

WHEREAS, in October 2001, the Southeast Museum Conference presented the Louisville Science Center with an award for excellence in exhibition design for *The World Within Us*; and

WHEREAS, the Louisville Science Center has been awarded several prestigious grants for educational programs to be conducted during the 2001-2002 school year, including a grant from the Center for Disease Control for a program entitled "Healthy Hearts, Healthy Futures," a grant from the Chicago Academy of Science for an educational program associated with an upcoming public television series, "Journey to the Planet Earth," and a grant from the Federal Institute of Museum and Library Services for general operating support; and

WHEREAS, the Louisville Science Center is dedicated to providing invaluable educational enrichment programs for Kentucky's schools and students and sparking the interest of all ages in math, science, and technology; and

WHEREAS, this prestigious program continues to offer to the Commonwealth of Kentucky inspiration and enrichment in areas of knowledge needed for its citizens' full participation in a global society;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The Louisville Science Center shall be designated as the State Science Center of Kentucky.

HB 759, AN ACT relating to geographic information.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.515 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council to advise the chief information officer on issues relating to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of twenty-six (26) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

  (a) The council shall consist of:

    1. The secretary of the Transportation Cabinet or his designee;

    2. The secretaries of the Cabinet for Health Services and of the Cabinet for Families and Children or their designees;

3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The chief information officer or her or his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department for Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;
13. The Commissioner of the Department of Agriculture or his designee;
14. The secretary of the Public Protection and Regulation Cabinet or his designee;
15. The secretary of the Tourism Development Cabinet or his designee;
16. ***One (1) member***[~~Two (2) members~~] appointed by the Governor from a list of ***three (3)***[~~six (6)~~] persons submitted by the president of the Kentucky League of Cities;
17. ***One (1) member***[~~Two (2) members~~] appointed by the Governor from a list of ***three (3)***[~~six (6)~~] persons submitted by the president of the Kentucky Association of Counties;
18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;
20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;
21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;
22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists;[~~ and~~]
23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts***;***
24. ***The executive director of the Kentucky Infrastructure Authority or his or her designee; and***
25. ***The secretary of the Finance and Administration Cabinet or his or her designee***.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that have, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have, directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the

council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 2. The following KRS sections are repealed:

11.517 Duties of Geographic Information Advisory Council.

42.630 Legislative findings.

42.650 Office of Geographic Information -- Powers and duties -- Authority for administrative regulations.

The Committee Substitute to **HB 759** is as follows:

HB 759, AN ACT relating to geographic information.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.515 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council to advise the chief information officer on issues relating to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of twenty-six (26) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretaries of the Cabinet for Health Services and of the Cabinet for Families and Children or their designees;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The chief information officer or her or his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department for Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;
13. The Commissioner of the Department of Agriculture or his designee;
14. The secretary of the Public Protection and Regulation Cabinet or his designee;
15. The secretary of the Tourism Development Cabinet or his designee;
16. ***One (1) member***[~~Two (2) members~~] appointed by the Governor from a list of ***three (3)***[~~six (6)~~] persons submitted by the president of the Kentucky League of Cities;
17. ***One (1) member***[~~Two (2) members~~] appointed by the Governor from a list of ***three (3)***[~~six (6)~~] persons submitted by the president of the Kentucky Association of Counties;
18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;

19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;
20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;
21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;
22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists;[~~ and~~]
23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts*;*
24. ***The executive director of the Kentucky Infrastructure Authority or his or her designee; and***
25. ***The secretary of the Finance and Administration Cabinet or his or her designee***.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that have, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have, directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 2. The following KRS sections are repealed:

42.630 Legislative findings.

42.650 Office of Geographic Information -- Powers and duties -- Authority for administrative regulations.

HB 775, AN ACT relating to unclaimed property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 393.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Banking organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, or a private banker engaged in business in this state;

(b) "Business association" means any corporation, joint stock company, business trust, partnership, or any association for business purposes of two (2) or more individuals;

(c) "Financial organization" means any savings and loan association, building and loan association, credit union, cooperative bank, or investment company, engaged in business in this state;

(d) "Life insurance corporation" means any corporation or association transacting within this state the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities;

(e) "Claim" means to demand payment or surrender of property from the person whose duty it is to pay the claimant, or surrender to him the property involved;

(f) "Treasurer" means the State Treasurer;

(g) "Department" means the Department of the Treasury;

(h) "Person" means any individual, state or national bank, partnership, joint stock company, business, trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent***;*** ***and***

(i) "Abandoned property fund" means the fund in which moneys are placed that are paid to the department pursuant to this chapter.

(2) This chapter does not apply to money, funds, or any other property held by or owing to any nonprofit, Internal Revenue Code Section 501(c)(3), tax-exempt hospital, or to bonds of counties, cities, school districts, or other tax-levying subdivisions of this state or to any money, funds, or other intangible property at any time held or owing for any minerals or other raw materials capable of being used for fuel in the course of manufacturing, processing, production, or mining. The provisions of this subsection shall be effective retroactively to all such moneys, funds, or other intangible property held or owing by any person on June 1, 1960, or thereafter.

Section 2. KRS 393.250 is amended to read as follows:

(1) Any necessary expense required to be paid by the state in administering and enforcing this chapter shall be paid out of the abandoned property ***fund***[~~receipts~~].

(2) The county attorney shall act as agent of the department for the collection of all judgments recovered in actions prosecuted by him under this chapter. He shall promptly remit the judgment recovered to the department with the information relating thereto as the department requires.

Section 3. KRS 393.110 is amended to read as follows:

(1) A holder of property presumed abandoned shall make an annual report to the department concerning the property. The report shall be filed on or before November 1 of each year and shall cover the twelve (12) months ending on July 1 of that year. All property so reported shall be turned over by November 1 to the department. The report shall be verified and shall include:

(a) Except with respect to travelers' checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of one hundred dollars ($100) or more presumed abandoned under this chapter and in the case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his last known address according to the records of the life insurance corporation;

(b) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under one hundred dollars ($100) each may be reported in the aggregate. The holder of abandoned property shall maintain its records for a period of five (5) years from the date of its report for items reported in the aggregate. If the owner of property reported in the aggregate makes a valid claim within five (5) years, the holder shall refund the property and deduct the amount refunded from the next report due to the department;

(c) The date when the property became payable, demandable, or returnable, and the date of the last known transaction with the owner with respect to the property if readily available; and

(d) Any other information which the department prescribes by administrative regulations necessary for the administration of this chapter. The report shall be ***retained by the department. The department shall publish, in accordance with KRS Chapter 424, an annual advertisement listing the names of the persons named on the report***[~~made in duplicate; the original shall be retained by the department, and the copy shall be mailed to the sheriff of the county where the property is located or held. It shall be the duty of the sheriff to post for not less than twenty (20) consecutive days this copy on the courthouse door or the courthouse bulletin board, and also to publish the copy pursuant to KRS Chapter 424~~]; except the ***department***[~~sheriff~~] shall not be required to publish any item with a fair cash value of one hundred dollars ($100) or less.[~~ The list shall be published within thirty (30) days of its receipt by the sheriff and this publication shall constitute compliance with the requirements of KRS Chapter 424.~~] The cost of the publication shall be paid by the state.[~~ The sheriff shall immediately certify in writing to the department the dates when the list was posted and published.~~] The list shall be[~~ posted and~~] published as required on or before October 1 ***following***[~~of~~] the year when it is made, and the[~~ posting and~~] publishing shall be constructive notice to all interested parties.

(2) The holder of property presumed abandoned shall send written notice to the apparent owner, not more than one hundred twenty (120) days or less than sixty (60) days before filing the report, stating that the holder is in possession of the property subject to this section; except the holder shall not be required to mail a notice to any apparent owner where the fair cash value of the property is one hundred dollars ($100) or less. The notice shall contain:

(a) A statement that according to a report filed with the department properties are being held to which the addressee appears entitled;

(b) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder; and

(c) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the department to whom all further claims must be directed.

(3) Any person who has made a report of any estate or property presumed abandoned, as required by this chapter, shall, by November 1 of each year, turn over to the department all property so reported; but if the person making the report or the owner of the property shall certify to the department that any or all of the statutory conditions necessary to create a presumption of abandonment no longer exist or never did exist, or shall report the existence of any fact or circumstance which has a substantial tendency to rebut the presumption, then, the person reporting or holding the property shall not be required to turn the property over to the department except on order of court. If a person files an action in court claiming any property which has been reported under the provisions of this chapter, the person reporting or holding the property shall be under no duty while the action is pending to turn the property over to the department, but shall have the duty of notifying the department of the pendency of the action.

(4) The person reporting or holding the property or any claimant of it shall always have the right to a judicial determination of his rights under this chapter, and nothing in this chapter shall be construed otherwise. The Commonwealth may institute an action to recover the property presumed abandoned, whether it has been reported or not, and may include in one (1) petition all the property within the jurisdiction of the court in which the action is brought if the property of different persons is set out in separate paragraphs.

HCR 184, A CONCURRENT RESOLUTION establishing a task force on a uniform indexing system.

WHEREAS, at present, indexing of documents filed in the county clerks' offices is largely left up to the clerks themselves; and

WHEREAS, there are one hundred and twenty county clerks' offices in the Commonwealth; and

WHEREAS, there is an unprecedented volume of documents being filed with the one hundred and twenty county clerks; and

WHEREAS, over time, this volume of documents will only increase, making research and retrieval of these documents more laborious, increasing the chances of error and the costs of storage, whether physically or electronically; and

WHEREAS, a uniform system of indexing would ease the reading, research, retrieval, and storage of those documents;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Task Force on a Uniform Indexing System is created to study and develop a proposal for a uniform indexing system for the filing of legal documents to be used by Kentucky county clerks.

Section 2. The members of the task force shall consist of the following fourteen members, as follows:

(1) Two members of the Kentucky House of Representatives, one from each party, appointed by the Speaker of the House;

(2) Two members of the Kentucky Senate, one from each party, appointed by the President of the Senate;

(3) The commissioner of the Department of Local Government, or a designee;

(4) The chief information officer of the Governor's Office of Information Technology, or a designee;

(5) One member representing the Kentucky Department of Libraries and Archives, recommended by the Governor and appointed by the Legislative Research Commission;

(6) One member representing the State Board of Licensure for Professional Engineers and Land Surveyors, recommended by the Governor and appointed by the Legislative Research Commission;

(7) One member representing the Kentucky Bar Association, recommended by the Chief Justice of the Kentucky Supreme Court and appointed by the Legislative Research Commission;

(8) One member representing the Kentucky Association of Realtors, appointed by the Legislative Research Commission;

(9) One member representing the Kentucky Bankers Association, appointed by the Legislative Research Commission; and

(10) Three county clerks, recommended by the Kentucky County Clerks Association and appointed by the Legislative Research

Commission.

Section 3. The President of the Senate shall appoint one of the Senate members to serve as co-chairperson of the task force. The Speaker of the House shall appoint one of the House members to serve as co-chairperson of the task force.

Section 4. The task force shall report its findings and legislative recommendations to the Legislative Research Commission no later than September 1, 2002.

Section 5. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Substitute to **HCR 184** is as follows:

HCR 184, A CONCURRENT RESOLUTION establishing a task force on a uniform indexing system.

WHEREAS, at present, indexing of documents filed in the county clerks' offices is largely left up to the clerks themselves; and

WHEREAS, there are one hundred and twenty county clerks' offices in the Commonwealth; and

WHEREAS, there is an unprecedented volume of documents being filed with the one hundred and twenty county clerks; and

WHEREAS, over time, this volume of documents will only increase, making research and retrieval of these documents more laborious, increasing the chances of error and the costs of storage, whether physically or electronically; and

WHEREAS, a uniform system of indexing would ease the reading, research, retrieval, and storage of those documents;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Task Force on a Uniform Indexing System is created to study and develop a proposal for a uniform indexing system for the filing of legal documents to be used by Kentucky county clerks.

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(4) The chief information officer of the Governor's Office of Information Technology, or a designee;

(5) One member representing the Kentucky Department of Libraries and Archives, recommended by the Governor and appointed by the Legislative Research Commission;

(6) One member representing the State Board of Licensure for Professional Engineers and Land Surveyors, recommended by the Governor and appointed by the Legislative Research Commission;

(7) One member representing the Kentucky Bar Association, recommended by the Chief Justice of the Kentucky Supreme Court and appointed by the Legislative Research Commission;

(8) One member representing the Kentucky Association of Realtors, appointed by the Legislative Research Commission;

(9) One member representing the Kentucky Bankers Association, appointed by the Legislative Research Commission; and

(10) Three county clerks, recommended by the Kentucky County Clerks Association and appointed by the Legislative Research Commission.

Section 3. The President of the Senate shall appoint one of the Senate members to serve as co-chairperson of the task force. The Speaker of the House shall appoint one of the House members to serve as co-chairperson of the task force.

Section 4. The task force shall report its findings and legislative recommendations to the Legislative Research Commission no later than December 1, 2002.

Section 5. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Appropriations and Revenue reported **HB 76,** with Committee Substitute and Committee Amendment attached thereto, **HB 184,** with Committee Substitute attached thereto, **HB 405,** with Committee Substitute and Committee Amendment attached thereto, **HB 519, HB 545,** with Committee Substitute and Committee Amendment attached thereto, and **HB 628** with expression of the opinion that the same should pass. Reported to the Committee on Rules.

The Committee Substitute to **HB 76** is as follows:

HB 76, AN ACT relating to abandoned infants, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.6526 is amended to read as follows:

(1) The Kentucky Board of Emergency Medical Services may hire a coordinator for the Emergency Medical Services for Children Program and other positions for which funding is provided by the General Assembly or through any other sources, including gifts, grants, or federal funds.

(2) The coordinator shall, subject to the direction of the Kentucky Board of Emergency Medical Services:

(a) Implement and oversee the Emergency Medical Services for Children Program described in this section; and

(b) Serve as liaison for collaboration and coordination between the Emergency Medical Services for Children Program, the Kentucky Board of Emergency Medical Services, and other public and private organizations, the state traffic safety office, the maternal and child health program, the Medicaid department, ***the Department for Community Based Services of the Cabinet for Families and Children,*** the state and local child fatality review and response teams, state and local professional organizations, private sector voluntary organizations, and consumer and community representatives.

(3) The Emergency Medical Services for Children Program may include, but not be limited to, the establishment of the following:

(a) Guidelines for necessary out-of-hospital medical service equipment;

(b) Guidelines and protocols for out-of-hospital pediatric emergency medical services;

(c) Assistance in the development and provision of professional education programs for emergency medical services personnel in the emergency care of infants and children;

(d) Coordination and cooperation between the Emergency Medical Services for Children Program and other public and private organizations interested or involved in emergency care for children, including those persons and organizations identified in subsection (2)(b) of this section; and

(e) 1. Guidelines and protocols for initial stabilization, treatment, and transportation regarding newborn infants placed with emergency medical services providers that include methods to preserve the confidentiality of a parent who places a newborn infant in the care of any emergency medical services provider in accordance with Section 4 of this Act and to provide voluntary informational materials required by Section 6 of this Act.

2. As used in this paragraph, "newborn infant" means an infant who is medically determined to be less than seventy-two (72) hours old.

(4)[~~(e)~~]The scope of activities carried out by the Emergency Medical Services for Children Program shall be commensurate with the availability of funds.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "newborn infant" means an infant who is medically determined to be less than seventy-two (72) hours old.

(2) Any emergency medical services provider accepting physical custody of a newborn infant in accordance with Section 4 of this Act shall have implied consent to any and all appropriate medical treatment.

(3) Notwithstanding any provision of law to the contrary, the identity of a person placing a newborn infant with an emergency medical services provider shall be confidential.

(4) The provisions of subsection (3) of this section shall not apply when indicators of child physical abuse or child neglect are present.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "newborn infant" means an infant who is medically determined to be less than seventy-two (72) hours old.

(2) Every hospital of this state that offers emergency services shall admit and provide all necessary medical care, diagnostic tests, and medical treatment to any newborn infant brought to the hospital when the identity of the parents is unknown. Any person performing medical care, diagnostic testing, or medical treatment shall be immune from criminal or civil liability for having performed the act. Nothing in this subsection shall limit liability for negligence.

(3) Any person or parent, other than an emergency medical services provider, a police officer, or a firefighter acting in the course of his or her official duties, who leaves a newborn infant at an emergency room, or brings a newborn infant to an emergency room and expresses an intent to leave the infant and not return, shall have the right to remain anonymous and to leave at any time, and shall not be pursued or followed. The physician shall consider these actions as implied consent for treatment.

(4) Upon admittance, the physician or hospital administrator shall immediately contact the local office of the Department

for Community Based Services. The Department for Community Based Services shall immediately seek an emergency custody order in accordance with Section 5 of this Act.

(5) Every emergency room shall make available materials to gather health and medical information concerning the infant and the parents. The materials shall be offered to the person leaving the newborn infant and it shall be clearly stated that acceptance is completely voluntary and completion of the materials may be done anonymously.

(6) The provisions of subsection (3) of this section shall not apply when indicators of child physical abuse or child neglect are present.

SECTION 4. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "newborn infant" means an infant who is medically determined to be less than seventy-two (72) hours old.

(2) A parent who places a newborn infant with an emergency medical services provider, police station, fire station, or hospital and expresses no intent to return for the infant shall have the right to remain anonymous and not be pursued and shall not be considered to have abandoned or endangered the newborn infant under KRS Chapters 508 and 530.

(3) Any emergency medical services provider, police officer, or firefighter who accepts physical custody of a newborn infant in accordance with this section shall immediately arrange for the infant to be taken to the nearest hospital emergency room and shall have implied consent to any and all appropriate medical treatment.

(4) By placing a newborn infant in the manner described in this section, the parent:

- *(a) Waives the right to notification required by subsequent court proceedings conducted under KRS Chapter 620 until such time as a claim of parental rights is made; and*
- *(b) Waives legal standing to make a claim of action against any person who accepts physical custody of the newborn infant.*

(5) The provisions of subsection (2) of this section shall not apply when indicators of child physical abuse or child neglect are present.

SECTION 5. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "newborn infant" who is medically determined to be less than seventy-two (72) hours old.

(2) Upon notice from any emergency medical services provider or hospital staff that a newborn infant has been abandoned at a hospital, the cabinet shall immediately seek an order for emergency custody of the infant.

- *(a) No child protective services investigation or assessment shall be initiated regarding the abandonment of an infant in accordance with Section 4 of this Act. The provisions of this subsection shall not apply when indicators of child physical abuse or child neglect are present.*
- *(b) Upon the infant's release from the hospital, the cabinet shall place the child in a foster home approved by the cabinet to provide concurrent planning placement services. As used in this paragraph, "concurrent planning placement services" means the foster family shall work with the cabinet on reunification with the birth family, if known, and shall seek to adopt the infant if reunification cannot be accomplished.*

(3) At the temporary removal hearing required by KRS 620.080, if the court places temporary custody with the cabinet, the custody order shall remain in effect for a minimum of thirty (30) days.

(4) During the initial thirty (30) days of placement, the cabinet shall request assistance from law enforcement officials to investigate through the Missing Child Information Center established by KRS 17.450 and other national resources to ensure that the infant is not a missing child.

(5) As soon as practicable following the thirty (30) day placement period, the cabinet shall file a petition in Circuit Court seeking the involuntary termination of parental rights of the unknown parents and authority to place the child for adoption in accordance with KRS Chapter 625.

(6) If a claim of parental rights is made at any time prior to the court order issued under KRS 625.100, the Circuit Court may hold the action for involuntary termination of parental rights in abeyance for a period of time not to exceed ninety (90) days and immediately remand the case to the District Court.

- *(a) If a case is remanded to District Court under this subsection, an adjudicatory hearing shall be conducted as required by KRS 620.100 within ten (10) days of the assertion of parental rights;*
- *(b) The District Court may order genetic testing to establish maternity or paternity at the expense of the claimant;*
- *(c) The cabinet shall conduct a child protective services investigation or assessment and home evaluation to develop recommendations for the District Court; and*
- *(d) Further proceedings shall be conducted in accordance with KRS Chapter 620; however, a newborn infant who has been placed in accordance with Section 4 of this Act shall not be found to be a neglected child based on that act alone.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall make available standardized health, medical, and background information forms for use in gathering voluntary, nonidentifying information from a person who leaves an infant in accordance with Section 4 of

this Act and as required by Sections 1 and 3 of this Act. The materials shall clearly state on each page that the information requested is designed to facilitate medical care for the infant. The material shall include information on family services, termination of parental rights, and adoption. The material shall also include:

(a) Information on the importance of medical and health information regarding the infant; and

(b) Written notification that failure to contact the Department for Community Based Services and assert a claim of parental rights within thirty (30) days of the receipt of the material shall result in the commencement of proceedings for involuntary termination of parental rights and placement of the child for adoption.

(2) Subject to available funding, the cabinet shall produce and distribute a media campaign to promote safe placement alternatives for newborn infants, the confidentiality offered to birth parents, and information regarding adoption procedures.

Section 7. Whereas Kentucky and the nation have experienced grief from the knowledge that newborn infants are abandoned in life-threatening situations and that some died from their abandonment; and whereas the parents of these newborn infants are under severe emotional stress; and whereas anonymity, confidentiality, and freedom from prosecution may encourage the parent to leave an infant safely and save the life of the infant, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Amendment No. 1 Title to **HB 76** is as follows:

By amending the title to read "AN ACT relating to abandoned infants, and declaring an emergency.".

The Committee Substitute to **HB 184** is as follows:

HB 184, AN ACT relating to the Department of Corrections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 196.160 is amended to read as follows:

(1) The commissioner shall appoint a warden, a receiver, and other necessary employees for each of the state penal and correctional institutions. The compensation of these officers and employees may include maintenance. The commissioner may require these officers and employees to wear uniforms and to adopt, amend, or rescind administrative regulations governing dress and grooming standards of these uniformed officers and employees.

(2) The department shall make the contributions required by KRS 61.592 for participation in the hazardous duty retirement program by its employees in those positions in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates.

(3) For those employees included in subsection (2) of this section and those whose primary workplace is a state correctional institution or the Kentucky Correctional Psychiatric Center, the department shall institute a career retention program, including salary improvements earned through extended time in qualifying public service. Salary improvements shall be effected by increasing the base salary of each employee in the career retention program by a set monthly amount after the employee's completion of the first two (2), four (4), six (6), eight (8), and ten (10) years of employment served after, and not prior to, July 1, 2002. The amount of the base salary increase to be awarded an employee after the employee's completion of a qualifying amount of public service under this subsection shall be as set out in the executive branch budget for each biennium following the 2002-2004 biennium in an amount calculated to recruit and retain qualified correctional personnel. Salary increases required by this subsection shall be in addition to any other increase authorized by law.

The Committee Substitute to **HB 405** is as follows:

HB 405, AN ACT relating to surface mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "private land" means property that is owned by a not-for-profit organization or by a noncommercial private owner and is subject to the construction of improvements on that property, and includes land that requires alteration, modification, excavation, or landscaping in order to make it relate to, and support the function of, a facility or improvement. Private land includes but is not limited to a parking lot for a church, a recreational facility or court for a school, and land alteration related to improvements to a private residence or other private use.

(2) Removal of coal on private land, incidentally and as a necessary requirement of facility construction, or as a consequence of the excavation or landscaping required to make the land support the intended function of a facility under construction, shall not require the owner of that private land to obtain a surface mining permit as required under this chapter, or a mining license as required under this chapter, if:

(a) The coal removed is five thousand (5,000) tons or less; and

(b) The coal removed is donated to a charitable, educational, or governmental organization, or the coal is sold and the proceeds are donated to such an organization.

(3) Upon request, the cabinet shall provide advice and technical assistance to owners of property subject to the provisions of subsection (2) of this section to ensure that coal is removed in a manner which complies with all state and federal law relating to safety, the requirements of this section, all applicable state law, the Federal Surface Mining Control and Reclamation Act of 1977, Title V, and related federal regulations, including but not limited to 30 C.F.R. 700.11 and 843.11.

(4) The cabinet shall within ten (10) days of the effective date of this Act, seek an opinion from the Federal Office of Surface Mining relating to the provisions of this section and shall not implement or administer the provisions of subsection (2) of this section until July 1, 2004. However, if the cabinet receives a Federal Office of Surface Mining determination that subsections (1) to (3) of this section, and any related administrative regulations of the cabinet, are consistent with, or otherwise not in violation of, the Federal Surface Mining Control and Reclamation Act of 1977, the cabinet may implement and administer the provisions of subsection (2) of this section prior to July 1, 2004.

Section 2. Whereas cabinet implementation of the provisions of Section 1 of this Act may proceed before July 1, 2004, if an opinion by the Federal Office of Surface Mining is received, and whereas time is of the essence for those who may be affected by the provisions of Section 1 of this Act, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Amendment No. 1 Title to **HB 405** is as follows:

Amend the title to read "AN ACT relating to surface mining and declaring an emergency.".

The Committee Amendment No. 1 to **HB 545** is as follows:

On page 1, line 23, after "***than***", by deleting "***three and one-half (3.5) hours***" and inserting "***one (1) hour of***" in lieu thereof; and

On page 5, line 7, after "***(6)***" by deleting the remaining new language and by deleting lines 8 through 14 in their entirety and inserting the following in lieu thereof:

"***Annually no later than July 1, the secretary shall make a report to the Workplace Violence Oversight and Advisory Council, established in Section 8 of this Act, on workplace violence awareness and prevention training provided for state employees during the preceding fiscal year. In addition, the report may include assessments of current training programs and recommendations for future training programs on workplace violence.***"; and

On page 9, line 14, after "***than***", by deleting "***three (3) hours***" and inserting "***one (1) hour***" in lieu thereof.

The Committee on Appropriations and Revenue reported **HB 614,** with Committee Substitute attached thereto, **HB 662,** with Committee Substitute attached thereto, and **HCR 158,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 614, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.400 is amended to read as follows:

(1) KRS 131.410 to 131.445 shall be known as and may be cited as the "Kentucky Tax Amnesty Act."

(2) The Revenue Cabinet shall develop and administer a one (1) time tax amnesty program as provided in KRS 131.410 to 131.445.

(3) As used in KRS 131.410 to 131.445, unless the context requires otherwise:

(a) "Cabinet" means the Revenue Cabinet.

(b) "Taxpayer" means any individual, partnership, joint venture, association, corporation, receiver, trustee, guardian, executor, administrator, fiduciary, ***limited liability company, limited liability partnership,*** or any other entity of any kind subject to any tax set forth in subsection (4) of this section or any person required to collect any such tax under subsection (4) of this section.

(c) "Account receivable" means an amount of state tax, penalty***, fee,*** or interest which has been recorded as due and entered in the account records of the cabinet, or which the taxpayer should reasonably expect to become due as a direct or indirect result of any pending or completed audit or investigation which the taxpayer knows is being conducted by any governmental taxing authority, federal, state or local.

(d) "[~~Final, ~~]Due and owing" means an assessment which has become final and is owed to the Commonwealth due to either the expiration of the taxpayer's appeal rights pursuant to KRS 131.110 or, if an assessment has been appealed to the board of tax appeals, the rendition of a final order by the board or by any court of this Commonwealth. For the purposes of KRS 131.410 to 131.445, assessments that have been appealed to the board of tax appeals shall be final, due and owing fifteen (15) days after the last unappealed or unappealable order sustaining the assessment or any part thereof has become final.

(4) Notwithstanding the provisions of any other law to the contrary, the tax amnesty program shall be conducted by the cabinet during the fiscal year ending June 30, ***2003***[~~1989~~], for a period of not less than sixty (60) days nor more than one hundred and twenty (120) days and shall apply to all taxpayers owing taxes, penalties***, fees,*** or interest ***subject to the administrative jurisdiction of the cabinet, with the exceptions of ad valorem taxes levied on real property pursuant to KRS Chapter 132, ad valorem taxes on motor vehicles and motorboats collected by the county clerks, and ad valorem taxes on personal property levied pursuant to KRS Chapter 132 that are payable to local officials***[~~administered by the cabinet under the provisions of KRS Chapters 131, 136, 137, 138, 139, 140, 141, 143, 143A, 224, 234, 243, 299, subtitles 3, 4 and 11 of Chapter 304 and omitted intangible property tax levied under Chapter 132~~]. The program shall apply to tax liabilities for taxable periods ending or transactions occurring ***after December 1, 1987, but*** prior to December 1, ***2001***[~~1987~~]. Amnesty tax return forms shall be in a form prescribed by the cabinet.

Section 2. KRS 131.410 is amended to read as follows:

(1) For any taxpayer who meets the requirements of KRS 131.420:

(a) For taxes which are owed as a result of the nonreporting or underreporting of tax liabilities or the nonpayment of any account receivable owed by an eligible taxpayer, the Commonwealth shall waive criminal prosecution and all civil penalties ***and fees*** which may be assessed under any KRS chapter ***subject to the administrative jurisdiction of the cabinet***[~~enumerated in subsection (4) of KRS 131.400~~] for the taxable years or periods for which tax amnesty is requested, plus ***all***[~~one half (1/2)~~] of the interest as provided in subsection (1) of KRS 131.425.

(b) [~~With the exception of instances in which the taxpayer and cabinet enter into an installment payment agreement authorized under subsection (3) of KRS 131.420,~~]The failure to pay all taxes[~~ and interest~~] as shown on the taxpayer's amnesty tax return shall invalidate any amnesty granted pursuant to KRS 131.410 to 131.445.

(2) This section shall not apply to any taxpayer who is on notice, written or otherwise, of a criminal investigation being conducted by an agency of the state or any political subdivision thereof or the United States, nor shall this section apply to any taxpayer who is the subject of any criminal litigation which is pending on the date of the taxpayer's application in any court of this state or the United States for nonpayment, delinquency, evasion or fraud in relation to any federal taxes or to any of the taxes to which this amnesty program is applicable.[~~ Also, this section shall not apply to any taxpayer who is required to remit installment payments pursuant to a valid payment agreement authorized by the cabinet any time prior to the tax amnesty period.~~]

(3) No refund or credit shall be granted for any interest***, fee,*** or penalty paid prior to the time the taxpayer requests amnesty pursuant to KRS 131.420.

(4) Unless the cabinet in its own discretion redetermines the amount of taxes[~~ and interest~~] due, no refund or credit shall be granted for any taxes[~~ or interest~~] paid under the amnesty program.

Section 3. KRS 131.420 is amended to read as follows:

(1) The provisions of KRS 131.400 to 131.445 shall apply to any eligible taxpayer who files an application for amnesty within the time prescribed by the cabinet and does the following:

(a) Files completed tax returns for all years or tax reporting periods as stated on the application for which returns have not previously been filed and files completed amended tax returns for all years or tax reporting periods as stated on the application for which the tax liability was underreported, except in cases in which the tax liability has been established through audit.

(b) Pays in full the taxes due for the periods and taxes applied for at the time the application or amnesty tax returns are filed within the amnesty period[~~ and pays with the taxes the amount of interest due as provided under subsection (1) of KRS 131.425~~] and pays the amount of any additional tax[~~ and interest~~] owed within thirty (30) days of notification by the cabinet.

(c) Pays in full within the amnesty period all taxes previously assessed by the cabinet that are[~~ final,~~] due and owing at the time the application or amnesty tax returns are filed[~~ and pays with the taxes the amount of interest due as provided under subsection (1) of KRS 131.425 and pays within thirty (30) days of notification by the cabinet the amount of any additional interest owed~~].

(2) An eligible taxpayer may participate in the amnesty program whether or not the taxpayer is under audit, notwithstanding the fact that the amount due is included in a proposed assessment or an assessment, bill, notice, or demand for payment issued by the cabinet; and without regard to whether the amount due is subject to a pending administrative or judicial proceeding. An eligible taxpayer may participate in the amnesty program to the extent of the uncontested portion of any assessed liability. However, participation in the program shall be conditioned upon the taxpayer's agreement that the right to protest or initiate an administrative or judicial proceeding or to claim any refund of moneys paid under the program is barred with respect to the amounts paid with the application or amnesty returns.

(3)[~~The cabinet may enter into an installment payment agreement in cases of severe hardship in lieu of the complete payment required under subsection (1) of this section. In such cases, twenty-five percent (25%) of the amount due shall be paid with the application or amnesty return with the balance to be paid in monthly installments not to exceed three (3) months. Failure of the taxpayer to make timely payments shall void the terms of the amnesty program. All such agreements and payments shall include interest as provided under subsection (2) of KRS 131.425.~~

~~(4)~~] If, following the termination of the tax amnesty period, the cabinet issues a deficiency assessment based upon information independent of that shown on a return filed pursuant to subsection (1) of this section, the cabinet shall have the authority to impose penalties and criminal action may be brought where authorized by law only with respect to the difference between the amount shown on the amnesty tax return and the correct amount of tax due. The imposition of penalties or criminal action shall not invalidate any waiver granted under KRS 131.410. With the exception of the cost of collection fee imposed under subsection (1) of KRS 131.440, all assessments issued by the cabinet under KRS 131.410 to 131.445 may be protested by the taxpayer in the same manner as other assessments pursuant to the terms of this chapter.

Section 4. KRS 131.425 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 131.183(1), all taxes paid with the amnesty tax return shall bear ***no*** interest ***imposed***[~~at one-half (1/2) of the variable tax interest rates applicable~~] under KRS 131.183(1) or other applicable statutes.[~~ Any tax not previously assessed by the cabinet and due for taxable periods ending or transactions occurring prior to July 1, 1982, shall bear interest at the rate of four percent (4%) per annum.~~]

(2)[~~All installment agreements authorized under subsection (3) of KRS 131.420 shall bear interest on the outstanding amount of tax due during the installment period at the full rate prescribed under KRS 131.183.~~

~~(3)~~] Notwithstanding the provisions of KRS 131.183(2) and 141.235, if any overpayment of tax under KRS 131.410 to 131.445 is refunded or credited within one hundred eighty (180) days after the return is filed, no interest shall be allowed.

Section 5. KRS 131.440 is amended to read as follows:

(1) In addition to all other penalties provided under KRS 131.410 to 131.445***, Section 17 of this Act,*** and KRS 131.990 and any other law, there is hereby imposed after the expiration of the tax amnesty period ***the following cost of collection fees:***

(a) A cost of collection fee of ***twenty-five percent (25%)***[~~twenty percent (20%)~~] on all taxes which are or become[~~ final,~~] due and owing to the cabinet for any reporting period, regardless of when due. This fee shall be in addition to any other applicable fee provided in this subsection***;***[~~.~~]

(b) Taxes which are assessed and collected after the amnesty period for taxable periods ending or transactions occurring prior to December 1, ***2001***[~~1987~~], shall be charged a cost of collection fee of ***twenty-five percent (25%)***[~~twenty percent (20%)~~] at the time of assessment***; and***[~~.~~]

(c) For any taxpayer who failed to file a return for any previous tax period for which amnesty is available and fails to file the return during the amnesty period, the cost of collection fee shall be fifty percent (50%) of any tax deficiency assessed after the amnesty period.[~~ These fees shall be in addition to all other applicable penalties.~~]

(2) [~~However, ~~]The secretary of revenue shall have the right to waive any penalties or collection fees when it is demonstrated that any deficiency of the taxpayer was[~~ not~~] due to ***reasonable cause as defined in KRS 131.010(9)***[~~negligence, intentional disregard of administrative regulations, or fraud~~]. However, any taxes that cannot be paid under the amnesty program because of the exclusions in subsection (2) of KRS 131.410 shall not be subject to these fees.

(3)[~~(2)~~] The provisions of subsection (1) of this section shall not relate to any account which has been protested pursuant to KRS 131.110 as of the expiration of the amnesty period and which does not become[~~ final,~~] due and owing, or to any account on which the taxpayer is remitting timely payments under a payment agreement negotiated with the cabinet prior to or during the amnesty period.

(4)[~~(3)~~] The fee levied under subsection (1) of this section shall not apply to taxes paid pursuant to the terms of the amnesty program nor shall the judgment penalty of twenty percent (20%) levied under KRS 135.060(3) apply in any case in which the fee levied under this section is applicable.

Section 6. KRS 131.445 is amended to read as follows:

(1) After the expiration of the tax amnesty period, the cabinet shall vigorously pursue all civil, administrative, and criminal penalties authorized by law for all taxes found to be due the Commonwealth.

(2) In addition to all other penalties provided under KRS 131.410 to 131.445***, Section 17 of this Act,*** and 131.990 and any other law, any taxpayer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class D felony.

SECTION 7. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 131.190 or any other confidentiality law to the contrary, the cabinet shall design, develop, implement, and operate a wage reporting and financial institution match system for the purpose of identifying the financial assets of delinquent taxpayers as identified by the cabinet, for the purpose of administering the collection of delinquent taxes owed to the Commonwealth. The cabinet may promulgate administrative regulations to implement this section.

(2) Each financial institution in the Commonwealth shall develop and operate, in conjunction with the cabinet, a data match system to facilitate identification of financial assets of delinquent taxpayers identified by the cabinet for the purpose of administering the delinquent tax collection programs of the Commonwealth.

SECTION 8. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) Financial institutions doing business in the Commonwealth shall provide identifying information each calendar quarter to the cabinet for each taxpayer identified by the cabinet that is indebted to the Commonwealth for delinquent taxes and that maintains an account at the institution.

(2) The financial institution shall be paid a fee for conducting data matches from the delinquent taxpayer's account, not to exceed the actual cost.

(3) No liability shall arise for the Commonwealth or the financial institution under this section with respect to any disclosure of financial records for the collection of the delinquent taxes owed by the taxpayer.

(4) The financial institution shall not be liable for encumbering or surrendering any assets held by the financial institution in response to a lien or notice of levy issued by the cabinet, or any other action taken in good faith to comply with the requirement of this section.

(5) "Financial institution" means:

- *(a) A depository institution and an institution-affiliated party as defined by 12 U.S.C. sec. 1813(c) and (u);*
- *(b) Any federal or state credit union, including an institution-affiliated party of that credit union, as defined by 12 U.S.C. sec. 1752 and 12 U.S.C. sec. 1786(r);*
- *(c) Any benefit association, insurance company, safe deposit company, money market mutual fund, brokerage firm, trust company, or similar entity authorized to do business in the Commonwealth.*

(6) The cabinet may promulgate administrative regulations to implement the requirements of this section.

SECTION 9. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) A financial institution furnishing a report or providing asset information of a delinquent taxpayer owing delinquent taxes to the cabinet shall not disclose to a depositor or an account holder that the name of that person has been received from or furnished to the cabinet. An institution may disclose to its depositors or account holders that under the financial institution match system the cabinet has the authority to request certain identifying information on certain depositors or account holders.

(2) If a financial institution willfully violates the provisions of this section, the institution shall pay to the cabinet the lesser of one thousand dollars ($1,000) or the amount on deposit or in the account of the person to whom the disclosure was made.

(3) A financial institution shall incur no obligation or liability to a depositor or account holder or any other person arising from the furnishing of a report or information to the cabinet pursuant to Sections 7 to 15 of this Act, or from the failure to disclose to a depositor or account holder that the name of the person was included in a list or report furnished by the financial institution to the cabinet.

(4) A financial institution shall not give notice to an account holder or customer of the financial institution that the financial institution has provided information or taken any action pursuant to Sections 7 to 15 of this Act and shall not be liable for failure to provide that notice. However, a financial institution may disclose to its depositors or account holders that, under the data match system, the cabinet has the authority to request certain identifying information on certain depositors or account holders.

(5) A financial institution may charge an account levied by the cabinet a fee of not more than twenty dollars ($20) which may be deducted from the account prior to remitting any funds to the cabinet.

SECTION 10. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 131.190 or any other confidentiality law to the contrary, the cabinet may publish a list or lists of taxpayers that owe delinquent taxes or fees administered by the Revenue Cabinet, and that meet the requirements of Section 11 of this Act.

(2) For purposes of this section, a taxpayer may be included on a list if:

- *(a) The taxes or fees owed remain unpaid at least forty-five (45) days after the dates they became due and payable; and*
- *(b) A tax lien or judgment lien has been filed of public record against the taxpayer before notice is given under Section 12 of this Act.*

(3) In the case of listed taxpayers that are business entities, the Revenue Cabinet may also list the names of responsible persons assessed pursuant to KRS 136.565, 138.885, 139.185, 141.340(2), and 142.357 for listed liabilities, who are not protected from publication by subsection (2) of this section, and for whom the requirements of Section 11 of this Act are satisfied with regard to the personal assessment.

(4) Before any list is published under this section, the cabinet shall document that each of the conditions for publication as provided in this section has been satisfied, and that procedures were followed to ensure the accuracy of the list and

notice was given to the affected taxpayers.

SECTION 11. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) The Revenue Cabinet may publish a list of all of the taxpayers described in Section 10 of this Act.

(2) For the purposes of this section, a tax or fee is not delinquent if:

(a) The procedures enumerated in KRS 131.110 have not been waived or exhausted at the time when notice would be given under Section 12 of this Act; or

(b) The liability is subject to a payment agreement and there is no delinquency in the payments required under the agreement.

(3) Unpaid liabilities are not subject to publication if:

(a) The cabinet is in the process of reviewing or adjusting the liability;

(b) The taxpayer is a debtor in a bankruptcy proceeding and the automatic stay is in effect;

(c) The cabinet has been notified that the taxpayer is deceased; or

(d) The time period for enforced collection of the taxes or fees has expired.

SECTION 12. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) At least thirty (30) days before publishing the name of a delinquent taxpayer, the cabinet shall mail a written notice to the taxpayer, detailing the amount and nature of each liability and the intended publication of the information listed in Section 13 of this Act related to the liability. The notice shall be mailed by first class mail addressed to the last known address of the taxpayer. The notice shall include information regarding the exceptions listed in Section 11 of this Act and shall state that the taxpayer's information will not be published if the taxpayer pays the delinquent obligation, enters into an agreement to pay, or provides information establishing that Section 11 prohibits publication of the taxpayer's name.

(2) After at least thirty (30) days have elapsed since the notice was mailed and the delinquent tax or fee has not been paid and the taxpayer has not proved to the cabinet that Section 11 of this Act prohibits publication, the cabinet may publish in a list of delinquent taxpayers the information about the taxpayer that is listed in Section 13 of this Act.

SECTION 13. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

The list may be published by any medium or method. The list may contain the name, address, type of tax or fee, and period for which payment is due for each liability, including penalties, interest, and other charges owed by each listed delinquent taxpayer.

SECTION 14. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

The cabinet shall remove the name of a taxpayer from the list of delinquent taxpayers after the cabinet receives written notice of and verifies any of the following facts about the liability in question:

(1) The taxpayer has contacted the cabinet and arranged resolution of the liability;

(2) An active bankruptcy proceeding has been initiated for the liability; or

(3) A bankruptcy proceeding concerning the liability has resulted in discharge of the liability.

SECTION 15. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

If the cabinet publishes a name under Section 10 of this Act in error, the taxpayer whose name was erroneously published has all the rights enumerated in KRS 131.081 for an aggrieved taxpayer.

Section 16. KRS 131.150 is amended to read as follows:

(1) When the Revenue Cabinet reasonably believes that any taxpayer has withdrawn from the state or concealed his assets or a material part thereof so as to hinder or evade the assessment or collection of taxes, or has desisted from any taxable activity in the state, or has become domiciled elsewhere, or has departed from this state with fraudulent intent to hinder or evade the assessment or collection of taxes, or has done any other act tending to render partly or wholly ineffective proceedings to assess or collect any such taxes, or contemplates doing any of these acts in the immediate future, or that any tax claim for any other reason is being endangered, such tax liability shall become due and payable immediately upon assessment or determination of the amount of taxes due, as authorized in this section.

(2) Under any of the circumstances set out in subsection (1) of this section, the cabinet may make a tentative assessment or determination of the taxes due, and may proceed immediately to bring garnishment, attachment or any other legal proceedings to collect the taxes so assessed or determined to be due. ***Notwithstanding the provisions of subsection (1) of Section 17 of this Act, if the tax so assessed is due to the failure of the taxpayer to file a required tax return a minimum penalty of one hundred dollars ($100) shall be assessed whether or not any tax is determined to be due on a subsequently filed return or if the subsequently filed returns results in a refund.*** No bond shall be required of the cabinet in such proceedings. The taxpayer may stay legal proceedings by filing a bond in an amount sufficient in the opinion of the cabinet to cover the taxes, penalties, interest and costs. If no legal proceedings have been instituted, the cabinet may require a bond adequate to cover all taxes, penalties and interest. On making bond, exception to the assessment or determination of tax liability may be filed in the same manner and time as provided in KRS 131.110. If no exceptions are

filed to the tentative assessment or determination, it shall become final.

(3) The cabinet may require any such taxpayer to file with it forthwith the reports required by law or regulation, or any additional reports or other information necessary to assess the property or determine the amount of tax due.

(4) If the cabinet fails to exercise the authority conferred by this section, such taxpayer shall report and pay all taxes due as otherwise provided by law.

Section 17. KRS 131.180 is amended to read as follows:

The provisions of this section shall be known as the "Uniform Civil Penalty Act." Penalties to be assessed in accordance with this section shall apply as follows unless otherwise provided by law:

(1) Any taxpayer who files any return or report after the due date prescribed for filing or the due date as extended by the cabinet shall, unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the total tax due for each thirty (30) days or fraction thereof that the report or return is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the total tax due; however, the penalty shall not be less than ten dollars ($10).

(2) Any taxpayer who fails to withhold or collect any tax as required by law, fails to pay the tax computed due on a return or report on or before the due date prescribed for it or the due date as extended by the cabinet or, excluding underpayments determined pursuant to subsections (2) and (3) of KRS 141.990, fails to have timely paid at least seventy-five percent (75%) of the tax determined due by the cabinet shall, unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the tax not withheld, collected, or timely paid for each thirty (30) days or fraction thereof that the withholding, collection, or payment is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the tax not timely withheld, collected, or paid; however, the penalty shall not be less than ten dollars ($10).

(3) Any taxpayer who fails to pay any installment of estimated tax by the time prescribed in KRS 141.044 and 141.305 or who, pursuant to subsections (2) or (3) of KRS 141.990, is determined to have a declaration underpayment shall, unless it is shown to the satisfaction of the cabinet that the failure or underpayment is due to reasonable cause, pay a penalty equal to ten percent (10%) of the amount of the underpayment or late payment; however, the penalty shall not be less than twenty-five dollars ($25).

(4) If any taxpayer fails or refuses to make and file a report or return or furnish any information requested in writing by the cabinet, the cabinet may make an estimate of the tax due from any information in its possession, assess the tax at not more than twice the amount estimated to be due, and add a penalty equal to five percent (5%) of the tax assessed for each thirty (30) days or fraction thereof that the return or report is not filed. The total penalty levied pursuant to this subsection shall not exceed fifty percent (50%) of the tax assessed; however, the penalty shall not be less than ***one hundred dollars ($100) whether or not any tax is determined to be due on a subsequently filed return or if the subsequently filed return results in a refund***~~[twenty-five dollars ($25)]~~.

(5) If any taxpayer fails or refuses to pay within forty-five (45) days of the due date any tax assessed by the cabinet which is not protested in accordance with KRS 131.110, there shall be added a penalty equal to two percent (2%) of the unpaid tax for each thirty (30) days or fraction thereof that the tax is final, due and owing but not paid.

(6) Any taxpayer who fails to obtain any identification number, permit, license, or other document of authority from the cabinet within the time required by law shall, unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, pay a penalty equal to ten percent (10%) of any cost or fee required to be paid for the identification number, permit, license, or other document of authority; however, the penalty shall not be less than fifty dollars ($50).

(7) If any tax assessed by the cabinet is the result of negligence by a taxpayer or other person, a penalty equal to ten percent (10%) of the tax so assessed shall be paid by the taxpayer or other person who was negligent.

(8) If any tax assessed by the cabinet is the result of fraud committed by the taxpayer or other person, a penalty equal to fifty percent (50%) of the tax so assessed shall be paid by the taxpayer or other person who committed fraud.

(9) If any check tendered to the cabinet is not paid when presented to the drawee bank for payment, there shall be paid as a penalty by the taxpayer who tendered the check, upon notice and demand of the cabinet, an amount equal to ten percent (10%) of the check. The penalty under this section shall not be less than ten dollars ($10) nor more than one hundred dollars ($100). If the taxpayer who tendered the check shows to the cabinet's satisfaction that the failure to honor payment of the check resulted from error by parties other than the taxpayer, the cabinet shall waive the penalty.

(10) Any person who fails to make any tax report or return or pay any tax within the time, or in the manner required by law, for which a specific civil penalty is not provided by law, shall pay a penalty as provided in this section, with interest from the date due at the tax interest rate as defined in KRS 131.010(6).

(11) The penalties levied pursuant to subsection (5) of this section shall apply to any tax assessment protested pursuant to KRS 131.110 to the extent that any appeal of the assessment or portion of it is ruled by the Kentucky Board of Tax Appeals or, if appealed from, the court of last resort, as not protested, appealed, or pursued in good faith by the taxpayer.

(12) Nothing in this section shall be construed to prevent the assessment or collection of more than one (1) of the penalties levied under this section or any other civil or criminal penalty provided for violation of the law for which penalties are imposed.

(13) All penalties levied pursuant to this section shall be assessed, collected, and paid in the same manner as taxes. Any corporate officer or other person who becomes liable for payment of any tax assessed by the cabinet shall likewise be liable for all penalties and interest applicable thereto.

SECTION 18. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of this chapter to the contrary, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of KRS 138.210 to 138.470 shall be personally and individually liable, both jointly and severally, for the tax imposed under KRS 138.210 to 138.470. Corporate dissolution, withdrawal of the corporation from the state, or the cessation of holding any corporate office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every person holding a corporate office at the time the tax becomes or became due. No person shall be personally and individually liable under KRS 138.210 to 138.470 who had no authority in the management of the business or financial affairs of the corporation at the time the tax imposed by KRS 138.210 to 138.470 becomes or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under the provisions of this chapter, and all applicable penalties imposed under the provisions of Section 17 of this Act, Sections 2 to 6 of this Act, and KRS 131.990.

(2) Notwithstanding any other provision of this chapter, KRS 275.150, or KRS 362.220(2) to the contrary, the managers of a limited liability company and the partners of a registered limited liability partnership or any other person holding any equivalent office of a limited liability company or a registered limited liability partnership subject to the provisions of KRS 138.210 to 138.470 shall be personally and individually liable, both jointly and severally, for the tax imposed under KRS 138.210 to 138.470. Dissolution, withdrawal of the limited liability company or registered limited liability partnership from the state, or the cessation of holding any office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every manager of a limited liability company and partner of a registered limited liability partnership at the time the tax becomes or became due. No person shall be personally and individually liable under this section who had no authority in the management of the business or financial affairs of the limited liability company or registered limited liability partnership at the time the tax imposed by KRS 138.210 to 138.470 becomes or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under the provisions of this chapter, and all applicable penalties imposed under the provisions of Section 17 of this Act, Sections 2 to 6 of this Act, and KRS 131.990.

Section 19. KRS 139.185 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter to the contrary, the president, vice president, secretary, treasurer or any other person holding any equivalent corporate office of any corporation subject to the provisions of this chapter shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter, and neither the corporate dissolution nor withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the foregoing liability of any person. The personal and individual liability shall apply to each and every person holding the corporate office at the time the taxes become or became due. No person will be personally and individually liable pursuant to this section who had no authority in the management of the business or financial affairs of the corporation at the time that the taxes imposed by this chapter become or became due. Taxes as used in this section shall include interest accrued at the rate provided by KRS 139.650 and all applicable penalties imposed under this chapter and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445 and 131.990.

(2) Notwithstanding any other provisions of this chapter, KRS 275.150, or KRS 362.220(2) to the contrary, the managers of a limited liability company and the partners of a registered limited liability partnership or any other person holding any equivalent office of a limited liability company or a registered limited liability partnership subject to the provisions of this chapter shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter. Dissolution, withdrawal of the limited liability company or registered limited liability partnership from the state, or the cessation of holding any office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every manager of a limited liability company and partner of a registered limited liability partnership at the time the taxes become or became due. No person shall be personally and individually liable under this section who had no authority in the management of the business or financial affairs of the limited liability company or a registered limited liability partnership at the time that the taxes imposed by this chapter become or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under this chapter, and all applicable penalties and fees imposed under Section 17 of this Act, Sections 2 to 6 of this Act, and KRS 131.990.

Section 20. KRS 141.340 is amended to read as follows:

(1) An employer shall be liable for the payment of the tax required to be deducted and withheld under KRS 141.310 and 141.315, and shall not be liable to any person for the amount of any such payment.

(2) The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any corporation subject to KRS 141.310 or 141.315 shall be personally and individually liable, both jointly and severally, for any tax required to be withheld under this chapter from wages paid to one (1) or more employees of any such corporation, and neither the corporate dissolution or withdrawal of the corporation from the state nor the cessation of holding any such corporate office shall discharge the foregoing liability of any such person; provided that the personal and individual

liability shall apply to each or every person holding such corporate office at the time such tax becomes or became obligated. *No person shall be personally and individually liable under this section who had no authority in the management of the business or financial affairs of the corporation at the time that the taxes imposed by this chapter become or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.138, all applicable penalties and fees imposed under Section 17 of this Act, Sections 2 to 6 of this Act, and KRS 131.990.*

(3) Notwithstanding any other provisions of this chapter, KRS 275.150, or KRS 362.220(2) to the contrary, the managers of a limited liability company and the partners of a registered limited liability partnership or any other person holding any equivalent office of a limited liability company or a registered limited liability partnership subject to KRS 141.310 or 141.315 shall be personally and individually liable, both jointly and severally, for any tax required to be withheld under this chapter from wages paid to one (1) or more employees of any such limited liability company or registered limited liability partnership. Dissolution, withdrawal of the limited liability company or registered limited liability partnership from the state, or the cessation of holding any office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every manager of a limited liability company and partner in a registered limited liability partnership at the time the taxes become or became due. No person shall be personally and individually liable under this section who had no authority in the management of the business or financial affairs of the limited liability company or a registered limited liability partnership at the time that the taxes imposed by this chapter become or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under this chapter, and all applicable penalties and fees imposed under Section 17 of this Act, Sections 2 to 6 of this Act, and KRS 131.990.

Section 21. Sections 7 to 20 of this Act shall take effect January 1, 2003.

Section 22. The amendments contained in subsection (2) of Section 18 of this Act, in Section 19 of this Act, and in subsection (3) of Section 20 of this Act apply retroactively to July 15, 1994.

The Committee Substitute to **HB 614** is as follows:

HB 614, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.400 is amended to read as follows:

(1) KRS 131.410 to 131.445 shall be known as and may be cited as the "Kentucky Tax Amnesty Act."

(2) The Revenue Cabinet shall develop and administer a~~[one (1) time]~~ tax amnesty program as provided in KRS 131.410 to 131.445.

(3) As used in KRS 131.410 to 131.445, unless the context requires otherwise:

(a) "Cabinet" means the Revenue Cabinet.

(b) "Taxpayer" means any individual, partnership, joint venture, association, corporation, receiver, trustee, guardian, executor, administrator, fiduciary, *limited liability company, limited liability partnership,* or any other entity of any kind subject to any tax set forth in subsection (4) of this section or any person required to collect any such tax under subsection (4) of this section.

(c) "Account receivable" means an amount of state tax, penalty*, fee,* or interest which has been recorded as due and entered in the account records of the cabinet, or which the taxpayer should reasonably expect to become due as a direct or indirect result of any pending or completed audit or investigation which the taxpayer knows is being conducted by any governmental taxing authority, federal, state or local.

(d) "~~[Final,]~~Due and owing" means an assessment which has become final and is owed to the Commonwealth due to either the expiration of the taxpayer's appeal rights pursuant to KRS 131.110 or, if an assessment has been appealed to the board of tax appeals, the rendition of a final order by the board or by any court of this Commonwealth. For the purposes of KRS 131.410 to 131.445, assessments that have been appealed to the board of tax appeals shall be final, due and owing fifteen (15) days after the last unappealed or unappealable order sustaining the assessment or any part thereof has become final.

(4) Notwithstanding the provisions of any other law to the contrary, the tax amnesty program shall be conducted by the cabinet during the fiscal year ending June 30, *2003*~~[1989]~~, for a period of not less than sixty (60) days nor more than one hundred and twenty (120) days and shall apply to all taxpayers owing taxes, penalties*, fees,* or interest *subject to the administrative jurisdiction of the cabinet, with the exceptions of ad valorem taxes levied on real property pursuant to KRS Chapter 132, ad valorem taxes on motor vehicles and motorboats collected by the county clerks, and ad valorem taxes on personal property levied pursuant to KRS Chapter 132 that are payable to local officials*~~[administered by the cabinet under the provisions of KRS Chapters 131, 136, 137, 138, 139, 140, 141, 143, 143A, 224, 234, 243, 299, subtitles 3, 4 and 11 of Chapter 304 and omitted intangible property tax levied under Chapter 132]~~. The program shall apply to tax liabilities for taxable periods ending or transactions occurring *after December 1, 1987, but* prior to December 1, *2001*~~[1987]~~. Amnesty tax return forms shall be in a form prescribed by the cabinet.

Section 2. KRS 131.410 is amended to read as follows:

(1) For any taxpayer who meets the requirements of KRS 131.420:

(a) For taxes which are owed as a result of the nonreporting or underreporting of tax liabilities or the nonpayment of any account receivable owed by an eligible taxpayer, the Commonwealth shall waive criminal prosecution and all civil penalties ***and fees*** which may be assessed under any KRS chapter ***subject to the administrative jurisdiction of the cabinet***[~~enumerated in subsection (4) of KRS 131.400~~] for the taxable years or periods for which tax amnesty is requested, plus ***all***[~~one half (1/2)~~] of the interest as provided in subsection (1) of KRS 131.425.

(b) With the exception of instances in which the taxpayer and cabinet enter into an installment payment agreement authorized under subsection (3) of KRS 131.420, The failure to pay all taxes[~~ and interest~~] as shown on the taxpayer's amnesty tax return shall invalidate any amnesty granted pursuant to KRS 131.410 to 131.445.

(2) This section shall not apply to any taxpayer who is on notice, written or otherwise, of a criminal investigation being conducted by an agency of the state or any political subdivision thereof or the United States, nor shall this section apply to any taxpayer who is the subject of any criminal litigation which is pending on the date of the taxpayer's application in any court of this state or the United States for nonpayment, delinquency, evasion or fraud in relation to any federal taxes or to any of the taxes to which this amnesty program is applicable.[~~ Also, this section shall not apply to any taxpayer who is required to remit installment payments pursuant to a valid payment agreement authorized by the cabinet any time prior to the tax amnesty period.~~]

(3) No refund or credit shall be granted for any interest***, fee,*** or penalty paid prior to the time the taxpayer requests amnesty pursuant to KRS 131.420.

(4) Unless the cabinet in its own discretion redetermines the amount of taxes[~~ and interest~~] due, no refund or credit shall be granted for any taxes[~~ or interest~~] paid under the amnesty program.

Section 3. KRS 131.420 is amended to read as follows:

(1) The provisions of KRS 131.400 to 131.445 shall apply to any eligible taxpayer who files an application for amnesty within the time prescribed by the cabinet and does the following:

(a) Files completed tax returns for all years or tax reporting periods as stated on the application for which returns have not previously been filed and files completed amended tax returns for all years or tax reporting periods as stated on the application for which the tax liability was underreported, except in cases in which the tax liability has been established through audit.

(b) Pays in full the taxes due for the periods and taxes applied for at the time the application or amnesty tax returns are filed within the amnesty period[~~ and pays with the taxes the amount of interest due as provided under subsection (1) of KRS 131.425~~] and pays the amount of any additional tax[~~ and interest~~] owed within thirty (30) days of notification by the cabinet.

(c) Pays in full within the amnesty period all taxes previously assessed by the cabinet that are[~~ final,~~] due and owing at the time the application or amnesty tax returns are filed[~~ and pays with the taxes the amount of interest due as provided under subsection (1) of KRS 131.425 and pays within thirty (30) days of notification by the cabinet the amount of any additional interest owed~~].

(2) An eligible taxpayer may participate in the amnesty program whether or not the taxpayer is under audit, notwithstanding the fact that the amount due is included in a proposed assessment or an assessment, bill, notice, or demand for payment issued by the cabinet; and without regard to whether the amount due is subject to a pending administrative or judicial proceeding. An eligible taxpayer may participate in the amnesty program to the extent of the uncontested portion of any assessed liability. However, participation in the program shall be conditioned upon the taxpayer's agreement that the right to protest or initiate an administrative or judicial proceeding or to claim any refund of moneys paid under the program is barred with respect to the amounts paid with the application or amnesty returns.

(3) The cabinet may enter into an installment payment agreement ***as provided in KRS 131.081(9)*** in cases of severe hardship in lieu of the complete payment required under subsection (1) of this section.[~~ In such cases, twenty-five percent (25%) of the amount due shall be paid with the application or amnesty return with the balance to be paid in monthly installments not to exceed three (3) months.~~] Failure of the taxpayer to make timely payments shall void the terms of the amnesty program. All such agreements and payments shall include interest as provided under subsection (2) of KRS 131.425.

(4) If, following the termination of the tax amnesty period, the cabinet issues a deficiency assessment based upon information independent of that shown on a return filed pursuant to subsection (1) of this section, the cabinet shall have the authority to impose penalties and criminal action may be brought where authorized by law only with respect to the difference between the amount shown on the amnesty tax return and the correct amount of tax due. The imposition of penalties or criminal action shall not invalidate any waiver granted under KRS 131.410. With the exception of the cost of collection fee imposed under subsection (1) of KRS 131.440, all assessments issued by the cabinet under KRS 131.410 to 131.445 may be protested by the taxpayer in the same manner as other assessments pursuant to the terms of this chapter.

Section 4. KRS 131.425 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 131.183(1), all taxes paid with the amnesty tax return shall bear *no* interest *imposed*[~~at one-half (1/2) of the variable tax interest rates applicable~~] under KRS 131.183(1) or other applicable statutes.[~~ Any tax not previously assessed by the cabinet and due for taxable periods ending or transactions occurring prior to July 1, 1982, shall bear interest at the rate of four percent (4%) per annum.~~]

(2)[~~ All installment agreements authorized under subsection (3) of KRS 131.420 shall bear interest on the outstanding amount of tax due during the installment period at the full rate prescribed under KRS 131.183.~~

~~(3)~~] Notwithstanding the provisions of KRS 131.183(2) and 141.235, if any overpayment of tax under KRS 131.410 to 131.445 is refunded or credited within one hundred eighty (180) days after the return is filed, no interest shall be allowed.

Section 5. KRS 131.440 is amended to read as follows:

(1) In addition to all other penalties provided under KRS 131.410 to 131.445*, Section 14 of this Act,* and KRS 131.990 and any other law, there is hereby imposed after the expiration of the tax amnesty period *the following cost of collection fees:*

(a) A cost of collection fee of *twenty-five percent (25%)*[~~twenty percent (20%)~~] on all taxes which are or become[~~ final,~~] due and owing to the cabinet for any reporting period, regardless of when due. This fee shall be in addition to any other applicable fee provided in this subsection*;*[~~.~~]

(b) Taxes which are assessed and collected after the amnesty period for taxable periods ending or transactions occurring prior to December 1, *2001*[~~1987~~], shall be charged a cost of collection fee of *twenty-five percent (25%)*[~~twenty percent (20%)~~] at the time of assessment*; and*[~~.~~]

(c) For any taxpayer who failed to file a return for any previous tax period for which amnesty is available and fails to file the return during the amnesty period, the cost of collection fee shall be fifty percent (50%) of any tax deficiency assessed after the amnesty period.[~~ These fees shall be in addition to all other applicable penalties.~~]

(2) [~~However, ~~]The secretary of revenue shall have the right to waive any penalties or collection fees when it is demonstrated that any deficiency of the taxpayer was[~~ not~~] due to *reasonable cause as defined in KRS 131.010(9)*[~~negligence, intentional disregard of administrative regulations, or fraud~~]. However, any taxes that cannot be paid under the amnesty program because of the exclusions in subsection (2) of KRS 131.410 shall not be subject to these fees.

(3)[~~(2)~~] The provisions of subsection (1) of this section shall not relate to any account which has been protested pursuant to KRS 131.110 as of the expiration of the amnesty period and which does not become[~~ final,~~] due and owing, or to any account on which the taxpayer is remitting timely payments under a payment agreement negotiated with the cabinet prior to or during the amnesty period.

(4)[~~(3)~~] The fee levied under subsection (1) of this section shall not apply to taxes paid pursuant to the terms of the amnesty program nor shall the judgment penalty of twenty percent (20%) levied under KRS 135.060(3) apply in any case in which the fee levied under this section is applicable.

Section 6. KRS 131.445 is amended to read as follows:

(1) After the expiration of the tax amnesty period, the cabinet shall vigorously pursue all civil, administrative, and criminal penalties authorized by *state and federal* law for all taxes found to be due the Commonwealth.

(2) In addition to all other penalties provided under KRS 131.410 to 131.445*, Section 14 of this Act,* and 131.990 and any other law, any taxpayer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class D felony.

SECTION 7. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 131.190 or any other confidentiality law to the contrary, the cabinet may publish a list or lists of taxpayers that owe delinquent taxes or fees administered by the Revenue Cabinet, and that meet the requirements of Section 8 of this Act.

(2) For purposes of this section, a taxpayer may be included on a list if:

(a) The taxes or fees owed remain unpaid at least forty-five (45) days after the dates they became due and payable; and

(b) A tax lien or judgment lien has been filed of public record against the taxpayer before notice is given under Section 9 of this Act.

(3) In the case of listed taxpayers that are business entities, the Revenue Cabinet may also list the names of responsible persons assessed pursuant to KRS 136.565, 138.885, 139.185, 141.340, and 142.357 for listed liabilities, who are not protected from publication by subsection (2) of this section, and for whom the requirements of Section 8 of this Act are satisfied with regard to the personal assessment.

(4) Before any list is published under this section, the cabinet shall document that each of the conditions for publication as provided in this section has been satisfied, and that procedures were followed to ensure the accuracy of the list and notice was given to the affected taxpayers.

SECTION 8. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) The Revenue Cabinet may publish a list of all of the taxpayers described in Section 7 of this Act.

(2) For the purposes of this section, a tax or fee is not delinquent if:

(a) The procedures enumerated in KRS 131.110 have not been waived or exhausted at the time when notice would be given under Section 9 of this Act; or

(b) The liability is subject to a payment agreement and there is no delinquency in the payments required under the agreement.

(3) Unpaid liabilities are not subject to publication if:

(a) The cabinet is in the process of reviewing or adjusting the liability;

(b) The taxpayer is a debtor in a bankruptcy proceeding and the automatic stay is in effect;

(c) The cabinet has been notified that the taxpayer is deceased; or

(d) The time period for enforced collection of the taxes or fees has expired.

SECTION 9. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) At least sixty (60) days before publishing the name of a delinquent taxpayer, the cabinet shall mail a written notice to the taxpayer, detailing the amount and nature of each liability and the intended publication of the information listed in Section 10 of this Act related to the liability. The notice shall be mailed by first class mail addressed to the last known address of the taxpayer. The notice shall include information regarding the exceptions listed in Section 8 of this Act and shall state that the taxpayer's information will not be published if the taxpayer pays the delinquent obligation, enters into an agreement to pay, or provides information establishing that Section 8 prohibits publication of the taxpayer's name.

(2) After at least sixty (60) days have elapsed since the notice was mailed and the delinquent tax or fee has not been paid and the taxpayer has not proved to the cabinet that Section 8 of this Act prohibits publication, the cabinet may publish in a list of delinquent taxpayers the information about the taxpayer that is listed in Section 10 of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

The list may be published by any medium or method. The list may contain the name, address, type of tax or fee, and period for which payment is due for each liability, including penalties, interest, and other charges owed by each listed delinquent taxpayer.

SECTION 11. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

The cabinet shall remove the name of a taxpayer from the list of delinquent taxpayers after the cabinet receives written notice of and verifies any of the following facts about the liability in question:

(1) The taxpayer has contacted the cabinet and arranged resolution of the liability;

(2) An active bankruptcy proceeding has been initiated for the liability; or

(3) A bankruptcy proceeding concerning the liability has resulted in discharge of the liability.

SECTION 12. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

If the cabinet publishes a name under Section 7 of this Act in error, the taxpayer whose name was erroneously published has all the rights enumerated in KRS 131.081 for an aggrieved taxpayer.

Section 13. KRS 131.150 is amended to read as follows:

(1) When the Revenue Cabinet reasonably believes that any taxpayer has withdrawn from the state or concealed his assets or a material part thereof so as to hinder or evade the assessment or collection of taxes, or has desisted from any taxable activity in the state, or has become domiciled elsewhere, or has departed from this state with fraudulent intent to hinder or evade the assessment or collection of taxes, or has done any other act tending to render partly or wholly ineffective proceedings to assess or collect any such taxes, or contemplates doing any of these acts in the immediate future, or that any tax claim for any other reason is being endangered, such tax liability shall become due and payable immediately upon assessment or determination of the amount of taxes due, as authorized in this section.

(2) Under any of the circumstances set out in subsection (1) of this section, the cabinet may make a tentative assessment or determination of the taxes due, and may proceed immediately to bring garnishment, attachment or any other legal proceedings to collect the taxes so assessed or determined to be due. *Notwithstanding the provisions of subsection (1) of Section 14 of this Act, if the tax so assessed is due to the failure of the taxpayer to file a required tax return a minimum penalty of one hundred dollars ($100) shall be assessed unless the taxpayer demonstrates that the failure to file was due to reasonable cause as defined in KRS 131.010(9). This penalty shall be applicable whether or not any tax is determined to be due on a subsequently filed return or if the subsequently filed returns results in a refund.* No bond shall be required of the cabinet in such proceedings. The taxpayer may stay legal proceedings by filing a bond in an amount sufficient in the opinion of the cabinet to cover the taxes, penalties, interest and costs. If no legal proceedings have been instituted, the cabinet may require a bond adequate to cover all taxes, penalties and interest. On making bond, exception to the assessment or determination of tax liability may be filed in the same manner and time as provided in KRS 131.110. If no exceptions are filed to the tentative assessment or determination, it shall become final.

(3) The cabinet may require any such taxpayer to file with it forthwith the reports required by law or regulation, or any additional reports or other information necessary to assess the property or determine the amount of tax due.

(4) If the cabinet fails to exercise the authority conferred by this section, such taxpayer shall report and pay all taxes due as otherwise provided by law.

Section 14. KRS 131.180 is amended to read as follows:

The provisions of this section shall be known as the "Uniform Civil Penalty Act." Penalties to be assessed in accordance with this section shall apply as follows unless otherwise provided by law:

(1) Any taxpayer who files any return or report after the due date prescribed for filing or the due date as extended by the cabinet shall, unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the total tax due for each thirty (30) days or fraction thereof that the report or return is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the total tax due; however, the penalty shall not be less than ten dollars ($10).

(2) Any taxpayer who fails to withhold or collect any tax as required by law, fails to pay the tax computed due on a return or report on or before the due date prescribed for it or the due date as extended by the cabinet or, excluding underpayments determined pursuant to subsections (2) and (3) of KRS 141.990, fails to have timely paid at least seventy-five percent (75%) of the tax determined due by the cabinet shall, unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the tax not withheld, collected, or timely paid for each thirty (30) days or fraction thereof that the withholding, collection, or payment is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the tax not timely withheld, collected, or paid; however, the penalty shall not be less than ten dollars ($10).

(3) Any taxpayer who fails to pay any installment of estimated tax by the time prescribed in KRS 141.044 and 141.305 or who, pursuant to subsections (2) or (3) of KRS 141.990, is determined to have a declaration underpayment shall, unless it is shown to the satisfaction of the cabinet that the failure or underpayment is due to reasonable cause, pay a penalty equal to ten percent (10%) of the amount of the underpayment or late payment; however, the penalty shall not be less than twenty-five dollars ($25).

(4) If any taxpayer fails or refuses to make and file a report or return or furnish any information requested in writing by the cabinet, the cabinet may make an estimate of the tax due from any information in its possession, assess the tax at not more than twice the amount estimated to be due, and add a penalty equal to five percent (5%) of the tax assessed for each thirty (30) days or fraction thereof that the return or report is not filed. The total penalty levied pursuant to this subsection shall not exceed fifty percent (50%) of the tax assessed; however, the penalty shall not be less than ***one hundred dollars ($100) unless the taxpayer demonstrates that the failure to file was due to reasonable cause as defined in KRS 131.010(9). This penalty shall be applicable whether or not any tax is determined to be due on a subsequently filed return or if the subsequently filed return results in a refund***[~~twenty-five dollars ($25)~~].

(5) If any taxpayer fails or refuses to pay within forty-five (45) days of the due date any tax assessed by the cabinet which is not protested in accordance with KRS 131.110, there shall be added a penalty equal to two percent (2%) of the unpaid tax for each thirty (30) days or fraction thereof that the tax is final, due and owing but not paid.

(6) Any taxpayer who fails to obtain any identification number, permit, license, or other document of authority from the cabinet within the time required by law shall, unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, pay a penalty equal to ten percent (10%) of any cost or fee required to be paid for the identification number, permit, license, or other document of authority; however, the penalty shall not be less than fifty dollars ($50).

(7) If any tax assessed by the cabinet is the result of negligence by a taxpayer or other person, a penalty equal to ten percent (10%) of the tax so assessed shall be paid by the taxpayer or other person who was negligent.

(8) If any tax assessed by the cabinet is the result of fraud committed by the taxpayer or other person, a penalty equal to fifty percent (50%) of the tax so assessed shall be paid by the taxpayer or other person who committed fraud.

(9) If any check tendered to the cabinet is not paid when presented to the drawee bank for payment, there shall be paid as a penalty by the taxpayer who tendered the check, upon notice and demand of the cabinet, an amount equal to ten percent (10%) of the check. The penalty under this section shall not be less than ten dollars ($10) nor more than one hundred dollars ($100). If the taxpayer who tendered the check shows to the cabinet's satisfaction that the failure to honor payment of the check resulted from error by parties other than the taxpayer, the cabinet shall waive the penalty.

(10) Any person who fails to make any tax report or return or pay any tax within the time, or in the manner required by law, for which a specific civil penalty is not provided by law, shall pay a penalty as provided in this section, with interest from the date due at the tax interest rate as defined in KRS 131.010(6).

(11) The penalties levied pursuant to subsection (5) of this section shall apply to any tax assessment protested pursuant to KRS 131.110 to the extent that any appeal of the assessment or portion of it is ruled by the Kentucky Board of Tax Appeals or, if appealed from, the court of last resort, as not protested, appealed, or pursued in good faith by the taxpayer.

(12) Nothing in this section shall be construed to prevent the assessment or collection of more than one (1) of the penalties levied under this section or any other civil or criminal penalty provided for violation of the law for which penalties are imposed.

(13) All penalties levied pursuant to this section shall be assessed, collected, and paid in the same manner as taxes. Any corporate officer or other person who becomes liable for payment of any tax assessed by the cabinet shall likewise be liable

for all penalties and interest applicable thereto.

SECTION 15. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of this chapter to the contrary, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of KRS 138.210 to 138.446 shall be personally and individually liable, both jointly and severally, for the tax imposed under KRS 138.210 to 138.446. Corporate dissolution, withdrawal of the corporation from the state, or the cessation of holding any corporate office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every person holding a corporate office at the time the tax becomes or became due. No person shall be personally and individually liable under this subsection who had no authority to collect, truthfully account for, or pay over any tax imposed by KRS138.210 to 138.446 at the time the tax imposed becomes or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under the provisions of this chapter, and all applicable penalties imposed under the provisions of Section 14 of this Act, Sections 2 to 6 of this Act, and KRS 131.990.

(2) Notwithstanding any other provision of this chapter, KRS 275.150, or KRS 362.220(2) to the contrary, the managers of a limited liability company and the partners of a registered limited liability partnership or any other person holding any equivalent office of a limited liability company or a registered limited liability partnership subject to the provisions of KRS 138.210 to 138.446 shall be personally and individually liable, both jointly and severally, for the tax imposed under KRS 138.210 to 138.446. Dissolution, withdrawal of the limited liability company or registered limited liability partnership from the state, or the cessation of holding any office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every manager of a limited liability company and partner of a registered limited liability partnership at the time the tax becomes or became due. No person shall be personally and individually liable under this subsection who had no authority to collect, truthfully account for, or pay over any tax imposed by KRS 138.210 to 138.446 at the time the tax becomes or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under the provisions of this chapter, and all applicable penalties imposed under the provisions of Section 14 of this Act, Sections 2 to 6 of this Act, and KRS 131.990.

Section 16. KRS 139.185 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter to the contrary, the president, vice president, secretary, treasurer or any other person holding any equivalent corporate office of any corporation subject to the provisions of this chapter shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter, and neither the corporate dissolution nor withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the foregoing liability of any person. The personal and individual liability shall apply to each and every person holding the corporate office at the time the taxes become or became due. No person will be personally and individually liable pursuant to this section who had no authority in the management of the business or financial affairs of the corporation at the time that the taxes imposed by this chapter become or became due. Taxes as used in this section shall include interest accrued at the rate provided by KRS 139.650 and all applicable penalties imposed under this chapter and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445 and 131.990.

(2) Notwithstanding any other provisions of this chapter, KRS 275.150, or KRS 362.220(2) to the contrary, the managers of a limited liability company and the partners of a registered limited liability partnership or any other person holding any equivalent office of a limited liability company or a registered limited liability partnership subject to the provisions of this chapter shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter. Dissolution, withdrawal of the limited liability company or registered limited liability partnership from the state, or the cessation of holding any office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every manager of a limited liability company and partner of a registered limited liability partnership at the time the taxes become or became due. No person shall be personally and individually liable under this subsection who had no authority to collect, truthfully account for, or pay over any tax imposed by this chapter at the time that the taxes imposed by this chapter become or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under this chapter, and all applicable penalties and fees imposed under Section 14 of this Act, Sections 2 to 6 of this Act, and KRS 131.990.

Section 17. KRS 141.340 is amended to read as follows:

(1) An employer shall be liable for the payment of the tax required to be deducted and withheld under KRS 141.310 and 141.315, and shall not be liable to any person for the amount of any such payment.

(2) The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any corporation subject to KRS 141.310 or 141.315 shall be personally and individually liable, both jointly and severally, for any tax required to be withheld under this chapter from wages paid to one (1) or more employees of any such corporation, and neither the corporate dissolution or withdrawal of the corporation from the state nor the cessation of holding any such corporate office shall discharge the foregoing liability of any such person; provided that the personal and individual liability shall apply to each or every person holding such corporate office at the time such tax becomes or became obligated. ***No person shall be personally and individually liable under this subsection who had no authority to collect, truthfully account for, or pay over any tax imposed by this chapter at the time that taxes imposed by this chapter***

become or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.138, all applicable penalties and fees imposed under Section 14 of this Act, Sections 2 to 6 of this Act, and KRS 131.990.

(3) Notwithstanding any other provisions of this chapter, KRS 275.150, or KRS 362.220(2) to the contrary, the managers of a limited liability company and the partners of a registered limited liability partnership or any other person holding any equivalent office of a limited liability company or a registered limited liability partnership subject to KRS 141.310 or 141.315 shall be personally and individually liable, both jointly and severally, for any tax required to be withheld under this chapter from wages paid to one (1) or more employees of any such limited liability company or registered limited liability partnership. Dissolution, withdrawal of the limited liability company or registered limited liability partnership from the state, or the cessation of holding any office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every manager of a limited liability company and partner in a registered limited liability partnership at the time the taxes become or became due. No person shall be personally and individually liable under this subsection who had no authority to collect, truthfully account for, or pay over any tax imposed by this chapter at the time that the taxes imposed by this chapter become or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under this chapter, and all applicable penalties and fees imposed under Section 14 of this Act, Sections 2 to 6 of this Act, and KRS 131.990.

Section 18. Sections 7 to 17 of this Act shall take effect January 1, 2003.

Section 19. The amendments contained in subsection (2) of Section 15 of this Act, in Section 16 of this Act, and in subsection (3) of Section 17 of this Act apply retroactively to July 15, 1994.

HB 662, AN ACT relating to motor fuel taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.210 is amended to read as follows:

As used in KRS 138.220 to 138.446, unless the context requires otherwise:

(1) "Accountable loss" means loss or destruction of "received" gasoline or special fuel through wrecking of transportation conveyance, explosion, fire, flood or other casualty loss, or contaminated and returned to storage. The loss shall be reported within thirty (30) days after discovery of the loss to the cabinet in a manner and form prescribed by the cabinet, supported by proper evidence which in the sole judgment of the cabinet substantiates the alleged loss or contamination and which is confirmed in writing to the reporting dealer by the cabinet. The cabinet may make any investigation deemed necessary to establish the bona fide claim of the loss;

(2) "Gasoline dealer" or "special fuels dealer" means any person who is:

(a) Regularly engaged in the business of refining, producing, distilling, manufacturing, blending, or compounding gasoline or special fuels in this state;

(b) Regularly importing gasoline or special fuel, upon which no tax has been paid, into this state for distribution in bulk to others;

(c) Distributing gasoline from bulk storage in this state;

(d) Regularly engaged in the business of distributing gasoline or special fuels from bulk storage facilities primarily to others in arm's-length transactions;

(e) In the case of gasoline, receiving or accepting delivery within this state of gasoline for resale within this state in amounts of not less than an average of one hundred thousand (100,000) gallons per month during any prior consecutive twelve (12) months' period, when in the opinion of the cabinet, the person has sufficient financial rating and reputation to justify the conclusion that he will pay all taxes and comply with all other obligations imposed upon a dealer; or

(f) Regularly exporting gasoline or special fuels;

(3) "Cabinet" means the Revenue Cabinet;

(4) (a) "Gasoline" means all liquid fuels, including liquids ordinarily, practically, and commercially usable in internal combustion engines for the generation of power, and all distillates of and condensates from petroleum, natural gas, coal, coal tar, vegetable ferments, and all other products so usable which are produced, blended, or compounded for the purpose of operating motor vehicles, showing a flash point of 110 degrees Fahrenheit or below, using the Eliott Closed Cup Test, or when tested in a manner approved by the United States Bureau of Mines, are prima facie commercially usable in internal combustion engines. The term "gasoline" as used herein shall include casing head, absorption, natural gasoline, and condensates when used without blending as a motor fuel, sold for use in motors direct, or sold to those who blend for their own use, but shall not include: propane, butane, or other liquefied petroleum gases, kerosene, cleaner solvent, fuel oil, diesel fuel, crude oil or casing head, absorption, natural gasoline and condensates when sold to be blended or compounded with other less volatile liquids in the manufacture of commercial gasoline for motor fuel, industrial naphthas, rubber solvents, Stoddard solvent, mineral

spirits, VM and P & naphthas, turpentine substitutes, pentane, hexane, heptane, octane, benzene, benzine, xylol, toluol, aromatic petroleum solvents, alcohol, and liquefied gases which would not exist as liquids at a temperature of sixty (60) degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute, unless the products are used wholly or in combination with gasoline as a motor fuel;

(b) "Special fuels" means and includes all combustible gases ***and***[~~,~~] liquids[~~, and taxable diesel fuel~~] capable of being used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, ***including diesel fuel, and dyed diesel fuel used exclusively for nonhighway purposes in off-highway equipment and in nonlicensed motor vehicles,*** except that it does not include gasoline, aviation jet fuel, kerosene unless used wholly or in combination with special fuel as a motor fuel,[~~ nontaxable diesel fuel exclusively used for nonhighway purposes in off-highway equipment and nonlicensed motor vehicles,~~] or liquefied petroleum gas as defined in KRS 234.100;

(c) "[~~Taxable ~~]Diesel fuel" means any liquid other than gasoline that, without further processing or blending, is suitable for use as a fuel in a diesel powered highway vehicle.[~~ Taxable~~] Diesel fuel does not include unblended kerosene***,*** No. 5, and No. 6 fuel oil as described in ASTM specification D 396 or F-76 Fuel Naval Distillate MILL-F-166884;

(d) "***Dyed***[~~Nontaxable~~] diesel fuel" means diesel fuel that is required to be dyed under United States Environmental Protection Agency rules for high sulfur diesel fuel, or is dyed under the Internal Revenue Service rules for low sulfur fuel, or pursuant to any other requirements subsequently set by the United States Environmental Protection Agency or the Internal Revenue Service[~~, and excludes fuel used in state or local government licensed vehicles~~];

(5) "Received" or "received gasoline" or "received special fuels" shall have the following meanings:

(a) Gasoline and special fuels produced, manufactured, or compounded at any refinery in this state or acquired by any dealer and delivered into or stored in refinery, marine, or pipeline terminal storage facilities in this state shall be deemed to be received when it has been loaded for bulk delivery into tank cars or tank trucks consigned to destinations within this state. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the dealer to collect the tax, it shall be presumed that all gasoline and special fuel loaded by any licensed dealer within this state into tank cars or tank trucks is consigned to destinations within this state, unless the contrary is established by the dealer, pursuant to rules and regulations prescribed by the cabinet; and

(b) Gasoline and special fuel acquired by any dealer in this state, and not delivered into refinery, marine, or pipeline terminal storage facilities, shall be deemed to be received when it has been placed into storage tanks or other containers for use or subject to withdrawal for use, delivery, sale, or other distribution. Dealers may sell gasoline or special fuel to licensed bonded dealers in this state in transport truckload, carload, or cargo lots, withdrawing it from refinery, marine, pipeline terminal, or bulk storage tanks, without paying the tax. In such instances, the licensed bonded dealer purchasing the gasoline or special fuel shall be deemed to have received such fuel at the time of withdrawal from the seller's storage facility and shall be responsible to the state for the payment of the tax thereon;

(6) "Refinery" means any place where gasoline or special fuel is refined, manufactured, compounded, or otherwise prepared for use;

(7) "Storage" means all gasoline and special fuel produced, refined, distilled, manufactured, blended, or compounded and stored at a refinery storage or delivered by boat at a marine terminal for storage, or delivered by pipeline at a pipeline terminal, delivery station, or tank farm for storage;

(8) "Transporter" means any person who transports gasoline or special fuel on which the tax has not been paid or assumed;

(9) "Bulk storage facility" means gasoline or special fuel storage facilities of not less than twenty thousand (20,000) gallons owned or operated at one (1) location by a single owner or operator for the purpose of storing gasoline or special fuel for resale or delivery to retail outlets or consumers;

(10) "Average wholesale price" shall mean:

(a) The weighted average per gallon wholesale tank wagon price of gasoline, exclusive of the nine cents ($0.09) per gallon federal tax in effect on January 1, 1984, any increase in the federal gasoline tax after July 1, 1984, and any fee on imported oil imposed by the Congress of the United States after July 1, 1986, as determined by the Revenue Cabinet from information furnished by licensed gasoline dealers or from information available through independent statistical surveys of gasoline prices. Dealers shall furnish within twenty (20) days following the end of the first month of each calendar quarter, the information regarding wholesale selling prices for the previous month required by the cabinet;

(b) Notwithstanding the provisions of paragraph (a) of this subsection, for purposes of the taxes levied in KRS 138.220, 138.660, and 234.320, in no case shall "average wholesale price" be deemed to be less than one dollar and eleven cents ($1.11) per gallon, and in no case shall "average wholesale price" be deemed to be more than one dollar and fifty cents ($1.50) per gallon on or before June 30, 1982. In fiscal year 1982-83, the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of fiscal year 1981-82; in each subsequent fiscal year the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of the previous fiscal year;

(11) "Motor vehicle" means any vehicle, machine, or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by the motor vehicles;

(12) "Public highways" means every way or place generally open to the use of the public as a matter or right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction;

(13) "Agricultural purposes" means purposes directly related to the production of agricultural commodities and the conducting of ordinary activities on the farm;

(14) "Retail filling station" means any place accessible to general public vehicular traffic where gasoline or special fuel is or may be placed into the fuel supply tank of a licensed motor vehicle.

Section 2. KRS 138.502 is amended to read as follows:

(1) ***A***~~[No]~~ person shall ***not*** sell or deliver ***untaxed***~~[nontaxable]~~ diesel fuel or ***dyed*** diesel fuel~~[contaminated with dye]~~ when the person knows or has reason to know that the fuel will be used in a motor vehicle on any public highway.

(2) ***A***~~[No]~~ person shall ***not*** introduce ***untaxed***~~[nontaxable]~~ diesel fuel or ***dyed*** diesel fuel~~[contaminated with dye]~~ into the supply tank of any motor vehicle licensed for highway use.

(3) ***A***~~[No]~~ person shall ***not*** use ***untaxed***~~[nontaxable]~~ diesel fuel ***or dyed diesel fuel***~~[contaminated with dye]~~ in any motor vehicle actually used on a public highway.

(4) The prohibitions contained in this section shall not apply to:

(a) Persons operating motor vehicles that have received fuel into the fuel tank outside this state in a jurisdiction that permits introduction of ***untaxed***~~[nontaxable]~~ diesel fuel ***or dyed diesel fuel*** into the fuel supply tank of highway vehicles; and

(b) Uses of ***untaxed***~~[nontaxable]~~ fuel ***or dyed diesel fuel*** on the highway which are lawful under the Internal Revenue Code and regulations, including state and local government vehicles, and buses, unless otherwise prohibited by this chapter.

(5) The cabinet may assess a civil penalty as follows:

(a) For first offenses, one thousand dollars ($1,000) or ten dollars ($10) per gallon of ***untaxed***~~[nontaxable]~~ fuel ***or dyed diesel fuel*** involved, whichever is greater, against any person who violates this section. The capacity of the fuel tank shall be assumed to be the amount of fuel involved, unless a lesser amount can be adequately verified by the violator; and

(b) For subsequent offenses, the penalty shall be the amount determined in paragraph (a) of this subsection, multiplied by the number of separate violations by the violator.

Section 3. KRS 138.224 is amended to read as follows:

It shall be presumed that all ***untaxed***~~[nontaxpaid]~~ motor fuels are subject to the tax levied under KRS 138.220 unless the contrary is established pursuant to KRS 138.210 to 138.500 or administrative regulations promulgated thereunder by the Revenue Cabinet. The tax shall be paid by the licensed dealer to the cabinet. The burden of proving that any motor fuel is not subject to tax shall be upon the dealer or any person who imports, causes to be imported, receives, uses, sells, stores or possesses ***untaxed***~~[nontaxpaid]~~ motor fuel in this state. Any dealer or other person who imports, causes to be imported, receives, uses, sells, stores or possesses ***untaxed***~~[nontaxpaid]~~ motor fuels but fails to comply with all statutory and regulatory restrictions applicable to ***the***~~[such]~~ fuel shall be jointly and severally liable for payment of the tax due on ***the***~~[such]~~ fuel. ***A person's***~~[Such]~~ liability shall not be extinguished until the tax due has been paid to the cabinet.

The Committee Substitute to **HB 662** is as follows:

HB 662, AN ACT relating to motor fuel taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.210 is amended to read as follows:

As used in KRS 138.220 to 138.446, unless the context requires otherwise:

(1) "Accountable loss" means loss or destruction of "received" gasoline or special fuel through wrecking of transportation conveyance, explosion, fire, flood or other casualty loss, or contaminated and returned to storage. The loss shall be reported within thirty (30) days after discovery of the loss to the cabinet in a manner and form prescribed by the cabinet, supported by proper evidence which in the sole judgment of the cabinet substantiates the alleged loss or contamination and which is confirmed in writing to the reporting dealer by the cabinet. The cabinet may make any investigation deemed necessary to establish the bona fide claim of the loss;

(2) "Gasoline dealer" or "special fuels dealer" means any person who is:

(a) Regularly engaged in the business of refining, producing, distilling, manufacturing, blending, or compounding gasoline or special fuels in this state;

(b) Regularly importing gasoline or special fuel, upon which no tax has been paid, into this state for distribution in bulk to others;

(c) Distributing gasoline from bulk storage in this state;

(d) Regularly engaged in the business of distributing gasoline or special fuels from bulk storage facilities primarily to others in arm's-length transactions;

(e) In the case of gasoline, receiving or accepting delivery within this state of gasoline for resale within this state in amounts of not less than an average of one hundred thousand (100,000) gallons per month during any prior consecutive twelve (12) months' period, when in the opinion of the cabinet, the person has sufficient financial rating and reputation to justify the conclusion that he will pay all taxes and comply with all other obligations imposed upon a dealer; or

(f) Regularly exporting gasoline or special fuels;

(3) "Cabinet" means the Revenue Cabinet;

(4) (a) "Gasoline" means all liquid fuels, including liquids ordinarily, practically, and commercially usable in internal combustion engines for the generation of power, and all distillates of and condensates from petroleum, natural gas, coal, coal tar, vegetable ferments, and all other products so usable which are produced, blended, or compounded for the purpose of operating motor vehicles, showing a flash point of 110 degrees Fahrenheit or below, using the Eliott Closed Cup Test, or when tested in a manner approved by the United States Bureau of Mines, are prima facie commercially usable in internal combustion engines. The term "gasoline" as used herein shall include casing head, absorption, natural gasoline, and condensates when used without blending as a motor fuel, sold for use in motors direct, or sold to those who blend for their own use, but shall not include: propane, butane, or other liquefied petroleum gases, kerosene, cleaner solvent, fuel oil, diesel fuel, crude oil or casing head, absorption, natural gasoline and condensates when sold to be blended or compounded with other less volatile liquids in the manufacture of commercial gasoline for motor fuel, industrial naphthas, rubber solvents, Stoddard solvent, mineral spirits, VM and P & naphthas, turpentine substitutes, pentane, hexane, heptane, octane, benzene, benzine, xylol, toluol, aromatic petroleum solvents, alcohol, and liquefied gases which would not exist as liquids at a temperature of sixty (60) degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute, unless the products are used wholly or in combination with gasoline as a motor fuel;

(b) "Special fuels" means and includes all combustible gases ***and***[~~,~~] liquids[~~, and taxable diesel fuel~~] capable of being used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, ***including diesel fuel, and dyed diesel fuel used exclusively for nonhighway purposes in off-highway equipment and in nonlicensed motor vehicles,*** except that it does not include gasoline, aviation jet fuel, kerosene unless used wholly or in combination with special fuel as a motor fuel,[~~ nontaxable diesel fuel exclusively used for nonhighway purposes in off-highway equipment and nonlicensed motor vehicles,~~] or liquefied petroleum gas as defined in KRS 234.100;

(c) "[~~Taxable ~~]Diesel fuel" means any liquid other than gasoline that, without further processing or blending, is suitable for use as a fuel in a diesel powered highway vehicle.[~~ Taxable~~] Diesel fuel does not include unblended kerosene***,*** No. 5, and No. 6 fuel oil as described in ASTM specification D 396 or F-76 Fuel Naval Distillate MILL-F-166884;

(d) "***Dyed***[~~Nontaxable~~] diesel fuel" means diesel fuel that is required to be dyed under United States Environmental Protection Agency rules for high sulfur diesel fuel, or is dyed under the Internal Revenue Service rules for low sulfur fuel, or pursuant to any other requirements subsequently set by the United States Environmental Protection Agency or the Internal Revenue Service[~~, and excludes fuel used in state or local government licensed vehicles~~];

(5) "Received" or "received gasoline" or "received special fuels" shall have the following meanings:

(a) Gasoline and special fuels produced, manufactured, or compounded at any refinery in this state or acquired by any dealer and delivered into or stored in refinery, marine, or pipeline terminal storage facilities in this state shall be deemed to be received when it has been loaded for bulk delivery into tank cars or tank trucks consigned to destinations within this state. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the dealer to collect the tax, it shall be presumed that all gasoline and special fuel loaded by any licensed dealer within this state into tank cars or tank trucks is consigned to destinations within this state, unless the contrary is established by the dealer, pursuant to rules and regulations prescribed by the cabinet; and

(b) Gasoline and special fuel acquired by any dealer in this state, and not delivered into refinery, marine, or pipeline terminal storage facilities, shall be deemed to be received when it has been placed into storage tanks or other containers for use or subject to withdrawal for use, delivery, sale, or other distribution. Dealers may sell gasoline or special fuel to licensed bonded dealers in this state in transport truckload, carload, or cargo lots, withdrawing it from refinery, marine, pipeline terminal, or bulk storage tanks, without paying the tax. In such instances, the licensed bonded dealer purchasing the gasoline or special fuel shall be deemed to have received such fuel at the time of withdrawal from the seller's storage facility and shall be responsible to the state for the payment of the tax thereon;

(6) "Refinery" means any place where gasoline or special fuel is refined, manufactured, compounded, or otherwise prepared for use;

(7) "Storage" means all gasoline and special fuel produced, refined, distilled, manufactured, blended, or compounded and stored at a refinery storage or delivered by boat at a marine terminal for storage, or delivered by pipeline at a pipeline terminal, delivery station, or tank farm for storage;

(8) "Transporter" means any person who transports gasoline or special fuel on which the tax has not been paid or assumed;

(9) "Bulk storage facility" means gasoline or special fuel storage facilities of not less than twenty thousand (20,000) gallons owned or operated at one (1) location by a single owner or operator for the purpose of storing gasoline or special fuel for resale or delivery to retail outlets or consumers;

(10) "Average wholesale price" shall mean:

(a) The weighted average per gallon wholesale tank wagon price of gasoline, exclusive of the nine cents ($0.09) per gallon federal tax in effect on January 1, 1984, any increase in the federal gasoline tax after July 1, 1984, and any fee on imported oil imposed by the Congress of the United States after July 1, 1986, as determined by the Revenue Cabinet from information furnished by licensed gasoline dealers or from information available through independent statistical surveys of gasoline prices. Dealers shall furnish within twenty (20) days following the end of the first month of each calendar quarter, the information regarding wholesale selling prices for the previous month required by the cabinet;

(b) Notwithstanding the provisions of paragraph (a) of this subsection, for purposes of the taxes levied in KRS 138.220, 138.660, and 234.320, in no case shall "average wholesale price" be deemed to be less than one dollar and eleven cents ($1.11) per gallon, and in no case shall "average wholesale price" be deemed to be more than one dollar and fifty cents ($1.50) per gallon on or before June 30, 1982. In fiscal year 1982-83, the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of fiscal year 1981-82; in each subsequent fiscal year the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of the previous fiscal year;

(11) "Motor vehicle" means any vehicle, machine, or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by the motor vehicles;

(12) "Public highways" means every way or place generally open to the use of the public as a matter or right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction;

(13) "Agricultural purposes" means purposes directly related to the production of agricultural commodities and the conducting of ordinary activities on the farm;

(14) "Retail filling station" means any place accessible to general public vehicular traffic where gasoline or special fuel is or may be placed into the fuel supply tank of a licensed motor vehicle***;***

(15) "Financial instrument" means a bond issued by a corporation authorized to do business in Kentucky, a line of credit, or an account with a financial institution maintaining a compensating balance.

Section 2. KRS 138.502 is amended to read as follows:

(1) ***A***[~~No~~] person shall ***not*** sell or deliver ***untaxed***[~~nontaxable~~] diesel fuel or ***dyed*** diesel fuel[~~ contaminated with dye~~] when the person knows or has reason to know that the fuel will be used in a motor vehicle on any public highway.

(2) ***A***[~~No~~] person shall ***not*** introduce ***untaxed***[~~nontaxable~~] diesel fuel or ***dyed*** diesel fuel[~~ contaminated with dye~~] into the supply tank of any motor vehicle licensed for highway use.

(3) ***A***[~~No~~] person shall ***not*** use ***untaxed***[~~nontaxable~~] diesel fuel ***or dyed diesel fuel***[~~contaminated with dye~~] in any motor vehicle actually used on a public highway.

(4) The prohibitions contained in this section shall not apply to:

(a) Persons operating motor vehicles that have received fuel into the fuel tank outside this state in a jurisdiction that permits introduction of ***untaxed***[~~nontaxable~~] diesel fuel ***or dyed diesel fuel*** into the fuel supply tank of highway vehicles; and

(b) Uses of ***untaxed***[~~nontaxable~~] fuel ***or dyed diesel fuel*** on the highway which are lawful under the Internal Revenue Code and regulations, including state and local government vehicles, and buses, unless otherwise prohibited by this chapter.

(5) The cabinet may assess a civil penalty as follows:

(a) For first offenses, one thousand dollars ($1,000) or ten dollars ($10) per gallon of ***untaxed***[~~nontaxable~~] fuel ***or dyed diesel fuel*** involved, whichever is greater, against any person who violates this section. The capacity of the fuel tank shall be assumed to be the amount of fuel involved, unless a lesser amount can be adequately verified by the violator; and

(b) For subsequent offenses, the penalty shall be the amount determined in paragraph (a) of this subsection, multiplied by the number of separate violations by the violator.

Section 3. KRS 138.224 is amended to read as follows:

It shall be presumed that all ***untaxed***[~~nontaxpaid~~] motor fuels are subject to the tax levied under KRS 138.220 unless the contrary is established pursuant to KRS 138.210 to 138.500 or administrative regulations promulgated thereunder by the Revenue Cabinet. The tax shall be paid by the licensed dealer to the cabinet. The burden of proving that any motor fuel is not subject to tax shall be upon the dealer or any person who imports, causes to be imported, receives, uses, sells, stores or possesses ***untaxed***[~~nontaxpaid~~] motor fuel in this state. Any dealer or other person who imports, causes to be imported, receives, uses, sells, stores or possesses ***untaxed***[~~nontaxpaid~~] motor fuels but fails to comply with all statutory and regulatory restrictions applicable to ***the***[~~such~~] fuel shall be jointly and severally liable for payment of the tax due on ***the***[~~such~~] fuel. ***A person's***[~~Such~~] liability shall not be extinguished until the tax due has been paid to the cabinet.

Section 4. KRS 138.330 is amended to read as follows:

(1) Every dealer or transporter required to be licensed under KRS 138.310 shall file with the Revenue Cabinet a ***financial instrument***[~~bond, issued by a corporation authorized to do surety business in Kentucky,~~] in an amount not to exceed three (3) months' estimated liability as computed by the cabinet or five thousand dollars ($5,000) whichever is greater, or in the case of a new licensee in the minimum amount of five thousand dollars ($5,000) until such time as an estimated three (3) months' liability can be established, provided that the maximum amount of any ***financial instrument***[~~such bond~~] may be reduced to an amount sufficient in the opinion of the cabinet, considering the financial rating and reputation of the company, to insure payment to the cabinet of the amount of tax, penalties and interest for which the dealer or transporter may become liable. The ***financial instrument***[~~bond~~] shall be on a form and with a surety approved by the cabinet. The dealer or transporter shall be the principal obligor and the state the obligee. The ***financial instrument***[~~bond~~] shall be conditioned upon the prompt filing of true reports by the dealer and transporter and the payment by the dealer to the State Treasurer of all gasoline and special fuel excise taxes now or hereafter imposed by the state, together with all penalties and interest thereon, and generally upon faithful compliance with the provisions of KRS 138.210 to 138.340.

(2) If liability upon the ***financial instrument***[~~bond~~] is discharged or reduced, whether by judgment rendered, payment made, or otherwise, or if in the opinion of the cabinet any surety on the ***financial instrument***[~~bond~~] has become unsatisfactory or unacceptable, the cabinet may require the licensee to file a new ***financial instrument***[~~bond~~] with satisfactory sureties in the same amount, failing which the cabinet shall cancel the license of the licensee in accordance with the provisions of KRS 138.340. If a new ***financial instrument***[~~bond~~] is furnished as provided above, the cabinet shall cancel and surrender the ***financial instrument***[~~bond~~] for which the new ***financial instrument***[~~bond~~] is substituted.

(3) If upon hearing, of which the licensee shall be given five (5) days' notice in writing, the cabinet decides that the amount of the existing ***financial instrument***[~~bond~~] is insufficient to insure payment to the state of the amount of tax, penalties, and interest for which the licensee is or may become liable, the licensee shall, upon the written demand of the cabinet, file an additional ***financial instrument***[~~bond~~] in the same manner and form with a surety thereon approved by the cabinet, in any amount determined by the cabinet to be necessary, failing which the cabinet shall cancel the license of the licensee in accordance with the provisions of KRS 138.340.

(4) Any surety on a ***financial instrument***[~~bond~~] furnished as required by this section shall be released from all liability to the state accruing on the ***financial instrument***[~~bond~~] after the expiration of sixty (60) days from the date upon which the surety has lodged with the cabinet a written request to be released, but this request shall not operate to release the surety from any liability already accrued or which shall accrue before the expiration of the sixty (60) day period. The cabinet shall promptly, upon receipt of a request, notify the licensee who furnished the ***financial instrument***[~~bond~~], and unless the licensee, before the expiration of the sixty (60) day period, files with the cabinet a new ***financial instrument***[~~bond~~] with a surety satisfactory to the cabinet in the amount and form prescribed in this section, the cabinet shall cancel the license of the licensee in accordance with the provisions of KRS 138.340. If an approved new ***financial instrument***[~~bond~~] is filed, the cabinet shall cancel and surrender the ***financial instrument***[~~bond~~] for which the new bond is substituted.

SECTION 5. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) A dealer may elect to be exempted from the provisions of Section 3 of this Act, subject to the following provisions:

(a) An election for exemption shall be made on an annual basis and shall be for a calendar year;

(b) At the conclusion of the year, the election for exemption shall continue for the next calendar year unless the dealer notifies the Revenue Cabinet of the dealer's intention to void the election for exemption by January fifteenth of the next calendar year; and

(c) If the election for exemption is voided, the provisions of Section 3 of this Act immediately apply.

(2) (a) A dealer electing to be exempted from the provisions of Section 3 of this Act shall file with the cabinet a financial instrument in an amount not to exceed two (2) months' estimated liability, as calculated by the cabinet, or five thousand dollars ($5,000), whichever is greater.

(b) The financial instrument shall be on a form and with a surety to do business in this state.

(c) The dealer shall be the principal obligor and the state the obligee.

(d) The financial instrument shall be conditioned upon the prompt filing of true reports and the payment by the dealer to the State Treasurer of all gasoline and special fuel excise taxes now or hereafter imposed by the state, together with all penalties and interest thereon, and generally upon faithful compliance with the provisions of KRS 138.210 to 138.340.

(3) (a) In addition to the provisions of KRS 138.210 to 138.340 the dealer shall certify to the cabinet no later than the fifteenth day of each month the amount of gasoline and special fuels tax due the Commonwealth by the twenty-fifth day of that month.

(b) The certification shall be submitted via an electronic method acceptable by both the dealer and the cabinet.

(c) By certifying the amount of tax which is to be remitted to the cabinet, the dealer agrees to initiate an Automated Clearing House credit transaction to electronically transfer the amount of tax from the dealer's account to the Kentucky State Treasurer on the twenty-fifth day of that month.

(d) If the dealer fails to certify the amount of tax collected as prescribed by this section or does not perform the electronic fund transfer, the cabinet may immediately make demand on the financial instrument and revoke the license of the dealer notwithstanding the provisions of KRS 138.340.

HCR 158, A CONCURRENT RESOLUTION relating to the Social Security Act's penalizing of members of the Kentucky Teachers' Retirement System.

WHEREAS, the Kentucky Teachers' Retirement System has a higher contribution rate and better benefits than the Social Security system; and

WHEREAS, the Kentucky Teachers' Retirement System is not coordinated with the federal Social Security system; and

WHEREAS, the Social Security Act includes two offsets, the Government Pension Offset and the Windfall Elimination Provisions, that reduce the Social Security benefits payable to persons who are entitled to benefits under other retirement systems under certain conditions; and

WHEREAS, these provisions penalize individuals who move from private sector employment to teaching; and

WHEREAS, Kentucky has a significant teacher shortage and loses approximately 2,000 teachers yearly to retirement and must actively recruit new teachers to meet enrollment growth needs as well as retirement replacement; and

WHEREAS, Kentucky currently has over 1,000 emergency certified teachers; and

WHEREAS, every child should have the opportunity to have a fully credentialed teacher in his or her classroom, but the Social Security Act offsets limit the number of fully credentialed teachers in the classroom by penalizing individuals who change from private to public employment; and

WHEREAS, the recruitment and retention of teachers from other states who are entitled to Social Security upon retirement is also limited and restricted by these offsets; and

WHEREAS, persons otherwise entitled to receive Social Security benefits should not be penalized because they also participate in the Kentucky Teachers' Retirement System;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the General Assembly of the Commonwealth of Kentucky requests the Congress of the United States to enact legislation to repeal the Government Pension Offset and the Windfall Elimination Provision from the Social Security Act.

Section 2. That the General Assembly of the Commonwealth of Kentucky requests President George W. Bush to sign that legislation.

Section 3. That the Clerk of the House of Representatives transmit copies of this Resolution to the President and Vice President of the United States, to the Speaker of the U.S. House of Representatives, the Majority Leader of the U.S. Senate, and to each Senator and Representative from the Commonwealth of Kentucky in the Congress of the United States.

The Committee on Labor and Industry reported **HB 633** and **HB 656,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 633, AN ACT relating to worker's compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.730 is amended to read as follows:

(1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows:

(a) For temporary or permanent total disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during that disability. Nonwork-related impairment and conditions compensable under KRS 342.732 and hearing loss covered in KRS 342.7305 shall not be considered in determining whether the employee is totally disabled for purposes of this subsection.

(b) For permanent partial disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by the permanent impairment rating caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, times the factor set forth in the table that follows:

AMA Impairment	Factor
0 to 5%	0.65
6 to 10%	0.85
11 to 15%	1.00
16 to 20%	1.00
21 to 25%	1.15
26 to 30%	1.35
31 to 35%	1.50
36% and above	1.70

Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

(c) 1. If, due to an injury, an employee does not retain the physical capacity to return to the type of work that the employee performed at the time of injury, the benefit for permanent partial disability shall be multiplied by three (3) times the amount otherwise determined under paragraph (b) of this subsection, but this provision shall not be construed so as to extend the duration of payments; or

2. If an employee returns to work at a weekly wage equal to or greater than the average weekly wage at the time of injury, the weekly benefit for permanent partial disability shall be determined under paragraph (b) of this subsection for each week during which that employment is sustained. During any period of cessation of that employment, temporary or permanent, for any reason, with or without cause, payment of weekly benefits for permanent partial disability during the period of cessation shall be two (2) times the amount otherwise payable under paragraph (b) of this subsection. This provision shall not be construed so as to extend the duration of payments.

3. Recognizing that limited education and advancing age impact an employee's post-injury earning capacity, an education and age factor, when applicable, shall be added to the income benefit multiplier set forth in paragraph (c)1. of this subsection. If at the time of injury, the employee had less than eight (8) years of formal education, the multiplier shall be increased by four-tenths (0.4); if the employee had less than twelve (12) years of education or a high school General Educational Development diploma, the multiplier shall be increased by two-tenths (0.2); if the employee was age sixty (60) or older, the multiplier shall be increased by six-tenths (0.6); if the employee was age fifty-five (55) or older, the multiplier shall be increased by four-tenths (0.4); or if the employee was age fifty (50) or older, the multiplier shall be increased by two-tenths (0.2).

4. Notwithstanding the provisions of KRS 342.125, a claim may be reopened at any time during the period of permanent partial disability in order to conform the award payments with the requirements of subparagraph 2. of this paragraph.

(d) For permanent partial disability, if an employee has a permanent disability rating of fifty percent (50%) or less as a result of a work-related injury, the compensable permanent partial disability period shall be four hundred twenty-five (425) weeks, and if the permanent disability rating is greater than fifty percent (50%), the compensable permanent partial disability period shall be five hundred twenty (520) weeks from the date the impairment or disability exceeding fifty percent (50%) arises. Benefits payable for permanent partial disability shall not exceed ninety-nine percent (99%) of sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined under KRS 342.740 and shall not exceed seventy-five percent (75%) of the state average weekly wage, except for benefits payable pursuant to paragraph (c)1. of this subsection, which shall not exceed one hundred percent (100%) of the state average weekly wage, nor shall benefits for permanent partial disability be payable for a period exceeding five hundred twenty (520) weeks, notwithstanding that multiplication of impairment times the factor set forth in paragraph (b) of this subsection would yield a greater percentage of disability.

(e) For permanent partial disability, impairment for nonwork-related disabilities, conditions previously compensated under this chapter, conditions covered by KRS 342.732, and hearing loss covered in KRS 342.7305 shall not be considered in determining the extent of disability or duration of benefits under this chapter.

(2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.

(3) Subject to the limitations contained in subsection (4) of this section, when an employee, who has sustained disability compensable under this chapter, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, portions of the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after the death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, benefits at fifty percent (50%) of the rate specified in the award; or

(b) If there are both a widow or widower and such a child or children, to the widow or widower, forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of those benefits if such a child or children are not living with the widow or widower; and, in addition thereto, fifteen percent (15%) of the benefits specified in the award to each child. Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike; or

(c) If there is no widow or widower but such a child or children, then to the child or children, fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of those benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750, or to both, in proportions that the commissioner provides by administrative regulation.

(e) To the widow or widower upon remarriage, up to two (2) years, benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if the proportioned benefits remain unpaid, to be paid in a lump sum.

(4) All income benefits payable pursuant to this chapter shall ***be reduced on a dollar for dollar basis by the amount of income benefits received when***[~~terminate as of the date upon which~~] the employee qualifies for normal old-age Social Security retirement benefits under the United States Social Security Act, 42 U.S.C. secs. 301 to 1397f, ***with the reduction in worker's compensation benefits becoming effective as of the date upon which the employee qualifies for normal old-age Social Security retirement benefits***[~~or two (2) years after the employee's injury or last exposure, whichever last occurs~~]. In like manner all income benefits payable pursuant to this chapter to spouses and dependents shall ***be reduced for benefits received***[~~terminate when such spouses and dependents qualify for benefits~~] under the United States Social Security Act by reason of the fact that the worker upon whose earnings entitlement is based would have qualified for normal old-age Social Security retirement benefits.

(5) All income benefits pursuant to this chapter otherwise payable for temporary total and permanent total disability shall be offset by unemployment insurance benefits paid for unemployment during the period of temporary total or permanent total disability.

(6) All income benefits otherwise payable pursuant to this chapter shall be offset by payments made under an exclusively employer-funded disability or sickness and accident plan which extends income benefits for the same disability covered by this chapter, except where the employer-funded plan contains an internal offset provision for workers' compensation benefits which is inconsistent with this provision.

(7) If an employee receiving a permanent total disability award returns to work, that employee shall notify the employer, payment obligor, insurance carrier, or special fund as applicable.

HB 656, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.690 is amended to read as follows:

(1) If an employer secures payment of compensation as required by this chapter, the liability of such employer under this chapter shall be exclusive and in place of all other liability of such employer to the employee, his legal representative, husband or wife, parents, dependents, next of kin, and anyone otherwise entitled to recover damages from such employer at law or in admiralty on account of such injury or death. For purposes of this section, the term "employer" shall include a

"contractor" covered by subsection (2) of KRS 342.610, whether or not the subcontractor has in fact, secured the payment of compensation. The liability of an employer to another person who may be liable for or who has paid damages on account of injury or death of an employee of such employer arising out of and in the course of employment and caused by a breach of any duty or obligation owed by such employer to such other shall be limited to the amount of compensation and other benefits for which such employer is liable under this chapter on account of such injury or death, unless such other and the employer by written contract have agreed to share liability in a different manner. The exemption from liability given an employer by this section shall also extend to such employer's carrier and to all employees, officers or directors of such employer or carrier, provided the exemption from liability given an employee, officer or director or an employer or carrier shall not apply in any case where the injury or death is proximately caused by the willful and unprovoked physical aggression of such employee, officer or director. ***The exemption from liability shall also not apply to an employer in any case where the injury or death is proximately caused by the failure of the employer to comply with any specific statute or lawful administrative regulation made thereunder for which a final determination of violation has been previously made against the employer.***

(2) If an employer fails to secure payment of compensation as required by this chapter, an injured employee, or his legal representative in case death results from the injury, may claim compensation under this chapter and in addition may maintain an action at law or in admiralty for damages on account of such injury or death, provided that the amount of compensation shall be credited against the amount received in such action, and provided that, if the amount of compensation is larger than the amount of damages received, the amount of damages less the employee's legal fees and expenses shall be credited against the amount of compensation. In such action the defendant may not plead as a defense that the injury was caused by the negligence of a fellow servant, that the employee assumed the risks of his employment, or that the injury was due to the contributory negligence of the employee.

(3) An employer shall retain all common law defenses against any action by an employee who elects not to be covered, as provided under subsection (6) of KRS 342.650.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Judiciary: **HB 811, HB 814, HB 815, HB 655**

Banking and Insurance: **HB 785, HB 786, HB 821, HB 822**

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report of Committees (Continued)

Representative Stumbo moved to suspend the rules to allow for Rules Committee Report. Agreed.

The Committee on Rules reported that **HB 714, HB 145, HB 502, HB 529, HB 587, HB 649, HB 668, HB 671, HCR 125, HB 117, HB 467, HB 693, HJR 140, HCR 147,** and **HJR 157** have been posted for passage in the Orders of the Day for March 6, 2002.

Legislative Citation No. 75 was adopted without objection.

Orders of the Day

HB 427, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Treesh moved the adoption of the Committee Substitute to **HB 427**. Agreed.

Representative Treesh moved that **HB 427**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 5, 2002, roll call on **HB 427** - Appendix.)

HB 427, by way of Committee Substitute, was passed and the title agreed to.

Representative Treesh moved that the vote by which **HB 427**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 627, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the Committee Substitute to **HB 627**. Agreed.

Representative Lindsay moved that **HB 627**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 5, 2002, roll call on **HB 627** - Appendix.)

HB 627, by way of Committee Substitute, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 627**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 319, with Committee Substitute, Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved the adoption of the Committee Substitute to **HB 319**. Agreed.

Representative Thomas moved the adoption of Floor Amendment No. 1, to **HB 319**. Agreed.

Representative A. Arnold moved that **HB 319**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 5, 2002, roll call on **HB 319** - Appendix.)

HB 319, by way of Committee Substitute, as amended, was passed.

Representative A. Arnold moved the adoption of Committee Amendment No. 1 Title to **HB 319**. Agreed.

Representative A. Arnold moved that the vote by which **HB 319**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 47** was delivered to the Senate and signed by the President. Delivered to the Governor on March 5, 2002, at 2:52 p.m.

Orders of the Day (Continued)

HB 478, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mckee moved the adoption of the Committee Substitute to **HB 478**. Agreed.

Representative Mckee moved that **HB 478**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 5, 2002, roll call on **HB 478** - Appendix.)

HB 478, by way of Committee Substitute, was passed.

Representative McKee moved the adoption of Committee Amendment No. 1 Title to **HB 478**. Agreed.

Representative Mckee moved that the vote by which **HB 478**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 521, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative S. Lee moved the adoption of Floor Amendment No. 1 to **HB 521**. Agreed.

Representative Damron moved that the rules be suspended to consider Floor Amendment No. 2 to **HB 521**. Agreed.

Representative Meeks inquired whether Floor Amendment No. 2 to **HB 521** was a piggy back.

The Speaker ruled that Floor Amendment No. 2 to **HB 521** was a piggy back.

Representative Damron moved to consider Floor Amendment No. 2 to **HB 521**. Agreed.

Representative Nelson moved the adoption of Floor Amendment No. 2 to **HB 521**. Agreed.

Representative Damron moved that **HB 521**, as amended, be passed.

On the roll call the vote was: **Yeas 79, Nays 19**. (See March 5, 2002, roll call on **HB 521** - Appendix.)

HB 521, as amended, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 521**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 586, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of the Committee Substitute to **HB 586**. Agreed.

Representative Wilkey moved the adoption of Floor Amendment No. 1 to **HB 586**. Agreed.

Representative Wilkey moved that **HB 586**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 76, Nays 19**. (See March 5, 2002, roll call on **HB 586** - Appendix.)

HB 586, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 586**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 654, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Denham moved the adoption of Committee Amendment No. 1 to **HB 654**. Agreed.

Representative Denham moved the adoption of Floor Amendment No. 1 to **HB 654**. Agreed.

Representative Denham moved the adoption of Floor Amendment No. 2 to **HB 654**. Agreed.

Representative Denham moved that **HB 654**, as amended, be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See March 5, 2002, roll call on **HB 654** - Appendix.)

HB 654, as amended, was passed and the title agreed to.

Representative Denham moved that the vote by which **HB 654**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 727 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 727** be passed.

On the roll call the vote was: **Yeas 25, Nays 69**. (See March 5, 2002, roll call on **HB 727** - Appendix.)

HB 727 was defeated.

HB 554, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeWeese moved the adoption of Floor Amendment No. 1 to **HB 554**. Agreed.

Representative DeWeese moved that **HB 554**, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 5, 2002, roll call on **HB 554** - Appendix.)

HB 554, as amended, was passed and the title agreed to.

Representative DeWeese moved that the vote by which **HB 554**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 644, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crall moved the adoption of the Committee Substitute to **HB 644**. Agreed.

Representative Crall moved that **HB 644**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 5, 2002, roll call on **HB 644** - Appendix.)

HB 644, by way of Committee Substitute, was passed and the title agreed to.

Representative Crall moved that the vote by which **HB 644**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 395 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved that **HB 395** be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 5, 2002, roll call on **HB 395** - Appendix.)

HB 395 was passed and the title agreed to.

Representative Westrom moved that the vote by which **HB 395** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 162 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved that **HCR 162** be adopted.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 5, 2002, roll call on **HCR 162** - Appendix.)

HCR 162 was adopted.

Representative Westrom moved that the vote by which **HCR 162** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 455, with Committee Substitutes, and Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brinkman moved the adoption of the Committee Substitute No. 2 to **HB 455**. Agreed.

Representative Brinkman moved the adoption of Floor Amendment No. 1 to **HB 455**. Agreed.

Representative Brinkman moved that **HB 455**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 5, 2002, roll call on **HB 455** - Appendix.)

HB 455, by way of Committee Substitute, as amended, was passed.

Representative Brinkman moved the adoption of Committee Amendment No. 1 Title to **HB 455**. Agreed.

Representative Brinkman moved that the vote by which **HB 455**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 232, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the Committee Substitute to **HB 232**. Agreed.

Representative Damron moved that **HB 232**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 91, Nays 1**. (See March 4, 2002, roll call on **HB 232** - Appendix.)

HB 232, by way of Committee Substitute, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 232**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved to suspend the rules to waive the posting requirement on **HB 821**. Agreed.

Representative Stumbo moved that **HB 846** be reassigned to the Committee on State Government. Agreed

Representative Stumbo moved to suspend the rules to waive the posting requirement on **HB 846**. Agreed.

Representative Stumbo moved that the rules be suspended for Introductions and Report of Committees. Agreed.

Introduction of Bills and Resolutions (Continued)

HCR 220, by Representative Weaver: A CONCURRENT RESOLUTION directing the Legislative Research Commission to create a task force to study Kentucky's system used to issue driver licenses.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Small Business: **HB 708, SB 13, SB 179**

Local Government: **HB 661, HB 694, HB 742**

Tourism Development and Energy: **HB 556**

Transportation: **HB 426, HB 463, HB 506, HB 741, HB 777, HJR 122, HCR 129, HJR 170, HJR 178, HJR 180, SJR 3, SJR 24, SJR 42**

The Clerk announced that the following Bill has been withdrawn from posting for Committee consideration:

Local Government: **HB 217**

Introduction of Bills and Resolutions (Continued)

HR 221, by Representatives Webb, Palumbo, Jenkins, Westrom, Stein, Marzian, Sims, Pullin, and C. Belcher : A RESOLUTION to congratulate and honor Congresswoman Nancy Pelosi.

Motions, Petitions, and Communications (Continued)

Representative Meeks moved the adoption of the following **HR 202**:

HR 202, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Goldie Savannah White.

With deepest respect and admiration, we pay homage and tribute to Goldie Savannah White and we pause in silent reverence for her eternal soul.

WHEREAS, Goldie Savannah White was born in 1914 to the late Katie Lyons and James Howard Smith of Burgin, Kentucky, and was one of seven children conceived by this union; and

WHEREAS, Goldie Savannah White was married in 1929 to the late Alvis M. White, Sr. of Notasulga, Alabama, and their marriage was blessed with ten children; and

WHEREAS, Goldie Savannah White accepted Jesus Christ at an early age and joined Little Zion Baptist Church on October 25, 1925, to begin her lifelong commitment to serving God in every conceivable capacity, eventually receiving the honor of being named the "Mother of Little Zion" and earning the love and respect of all her Church family; and

WHEREAS, Goldie Savannah White traversed these earthly bounds on Saturday, February 23, 2002, at St. Joseph Hospital in Lexington, Kentucky; and

WHEREAS, Goldie Savannah White leaves to cherish her precious memory, ten children, Ruby Dunn, Shirley Akiwowo, Eleanor Dunn, Arnetta White, Anna Parks (Wallace), Charles White, Jane James (Bobby "Ben"), Jacquelen White, Alvin White, and Denise C. White (her granddaughter, who she raised as her daughter); and

WHEREAS, the family legacy of Goldie Savannah White includes 43 grandchildren, 56 great-grandchildren, 16 great-great grandchildren, and a host of extended family and longtime faithful friends; and

WHEREAS, the passing of Goldie Savannah White has left a void that will be difficult to fill, and she is mourned across the length and breadth of the Commonwealth of Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Goldie Savannah White, and extends to her immediate family, many relatives, and various friends its most heartfelt sympathy and condolences.

Section 2. When the House of Representatives adjourns on this day, it does so in loving memory and honor of Goldie Savannah White.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Denise White, 200 South Peach Street, Burgin, Kentucky 40310.

There being no objection **HR 202** was adopted.

Representative Branham moved the adoption of the following **HR 211**:

HR 211, A RESOLUTION renaming the road to Swampgut the "Larry 'Red Dog' Webster Highway."

WHEREAS, for many years Larry "Red Dog" Webster has been a fixture in Eastern Kentucky in general and specifically Pikeville serving as a columnist in the Appalachian News-Express newspaper, having his articles reprinted in the Lexington Herald-Leader as well as other newspapers; and

WHEREAS, Larry "Red Dog" Webster is a well-established humorist, musician, political pundit, attorney, husband, father, and all-around voice of the "little guy" in Eastern Kentucky; and

WHEREAS, the way to good government may, for the purposes of this Resolution, be termed the "road to Swampgut," and extending the metaphor, Larry "Red Dog" Webster has been the somewhat irritating gas station attendant providing good directions to the drivers of the state who are often reluctant to stop and ask for directions;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby recognize Larry "Red Dog" Webster's achievements in holding the cause of the "little guy" in issues of concern to Eastern Kentucky as well as the Commonwealth.

Section 2. In recognition of Larry "Red Dog" Webster's achievements, the House of Representatives does hereby rename the road to Swampgut as the "Larry 'Red Dog' Webster Highway."

Section 3. The clerk of the House of Representatives is directed to send a copy of this Resolution to Larry "Red Dog" Webster in care of the Appalachian News-Express, 129 Caroline Avenue, Pikeville, Kentucky 41501.

There being no objection **HR 211** was adopted.

Representative Denham moved the adoption of the following **HR 219**:

HR 219, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Goldie Elizabeth Graham.

With deepest respect and admiration, we pay homage and tribute to Goldie Elizabeth Graham, and we pause in silent reverence for her soul.

WHEREAS, Goldie Elizabeth Graham was born on November 8, 1935, a native of Fleming County, Kentucky, and she traversed these earthly bounds on February 28, 2002; and

WHEREAS, Goldie Elizabeth Graham was the loving daughter of the late McMullen and Evelyn Taylor Graham, and she was the loving sister of Mary E. Huff of Atlanta, Georgia, and Emma C. Lewis of Maysville; she was the devoted mother of two daughters, Michelle Graham of Flemingsburg and Maxine Graham of Tallahassee, Florida, and two sons, Robbie Graham and his wife, Deena, of Flemingsburg, and Michael Graham of Flemingsburg; and she was the proud grandmother of thirteen grandchildren; and

WHEREAS, Goldie Elizabeth Graham was an esteemed member of the Fleming County community where she was employed by Community Based Services for twenty-two years; and she was a member of Strawberry Methodist Church, where her funeral services are scheduled to be held on March 6, 2002, with the Reverend Randy Taylor and the Reverend Jeff Gibbs officiating, with burial in the Fleming County Cemetery; and

WHEREAS, the passing of Goldie Elizabeth Graham has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Goldie Elizabeth Graham, and extends to her family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Goldie Elizabeth Graham.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Ms. Michelle Graham, 210 School Street, Flemingsburg, Kentucky 41041.

There being no objection **HR 219** was adopted.

Representative Nunn moved the adoption of the following **HR 195**:

HR 195, A RESOLUTION urging BellSouth to reconsider closing its Western Kentucky call center.

WHEREAS, BellSouth recently announced plans to consolidate its call centers operating in two Kentucky cities by closing its Paducah call center; and

WHEREAS, the relocation proposal constitutes a major change in the operation of BellSouth services for Kentucky citizens, businesses, and local governments, and tremendous upheaval in the lives of company employees whose livelihood and family security are threatened; and

WHEREAS, the relocation proposal removes the BellSouth call center that currently operates in Paducah and leaves the entire territory in Western Kentucky without customer service from call centers in the region; and

WHEREAS, call centers constitute the customer service network of BellSouth and include the service representatives and the sales associate representatives; and

WHEREAS, BellSouth's proposal will uproot those families that are compelled to relocate according to the company directive, and the large number of long-term employees who cannot move to follow their jobs will simply be left behind financially and emotionally; and

WHEREAS, dedicated women constitute the principal class of employees tragically affected by the relocation proposal, and traditionally they are not able to follow their jobs; and

WHEREAS, communities throughout Western Kentucky would suffer a significant reduction in anticipated revenue and serious trauma would be inflicted on the lives of decent, dedicated citizens whose well-being and that of their families would be placed in jeopardy;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives urges BellSouth to reconsider its proposed relocation of the Western Kentucky call center, given the severe economic and emotional consequences of such a move.

Section 2. A copy of this Resolution shall be sent to the Chairman and CEO of the BellSouth Corporation at 1155 Peachtree Street NE, Atlanta, GA 30309.

There being no objection **HR 195** was adopted.

Representative Geveden moved to withdraw Floor Amendment No. 2 to **HB 602**. Agreed.

Representative Crimm moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crimm moved that he be recorded as voting "yea" on **HB 39**. Agreed.

Representative Bowling moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bowling moved that he be recorded as voting "nay" on **HB 727**. Agreed.

Representative Westrom moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Westrom moved that she be recorded as voting "yea" on **HCR 162**. Agreed.

Representative Thomas moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Thomas moved that he be recorded as voting "yea" on **HB 39, HB 47, HB 334, HB 367, HB 615, HB 622, HB 634, HB 730,** and **SCR 17**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 809**, by Representative J. Turner:

On page 1, line 2, after "*(a)*" by inserting the following: "*As used in this section, "he or she" includes "person" as defined in KRS 350.010.*"; and

On page 1, line 2, before "If" by inserting "*(b)*"; and

On page 2, line 4, by deleting "*(b)*" and replacing it with "*(c)*"; and

On page 2, line 27, by deleting "*(c)*" and replacing it with "*(d)*"; and

On page 3, line 12, by deleting "*(d)*" and replacing it with "*(e)*".

Floor Amendment No. 1 to **HB 525**, by Representative Moberly:

On page 1, lines 21 through 23, delete all new language and insert in lieu thereof:

"*upon any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor,*";

On page 3, line 14 through 16, delete all new language and insert in lieu thereof:

"*, or upon any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor*";

On page 4, line 27, and on page 5, lines 1 and 2, delete all new language and insert in lieu thereof:

"*or upon any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor,*";

On page 7, lines 11 through 13, delete all new language and insert in lieu thereof:

"*any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor.*";

On page 15, line 15, after "*commissioner*" insert "*may*" and delete "*shall*";

On page 20, lines 10 through 14, delete all new language and insert in lieu thereof:

"*(j) Review and approve the annual plan which details the annual allocation of funds from the Science and Technology Funding Program, prior to the Council on Postsecondary Education executing a contract with the science and technology organization to administer science and technology funding programs. As used in this*

paragraph, the Science and Technology Funding Program means the Kentucky Rural Innovation Program, the Kentucky Research and Development Voucher Program, the Kentucky Commercialization Program, The Regional Technology Corporations/Innovation and Commercialization Center Satellites, and the Experimental Program to Stimulate Competitive Research/Kentucky Science and Engineering Foundation";

On page 31, line 9 delete "***tax***" and inserting in lieu thereof, "***taxes***";

On page 31, line 10, after "***KRS***" insert "***136.300, 136.310, and***";

On page 31, line 14, after the "***.***" insert "***An investor may first claim the credit granted in subsection (1) of this section in the year following the year in which the credit is granted.***";

On page 33, line 4, after the second "***investor***" and before the "***.***" insert "***, and the year the credits may first be claimed***";

On page 33, after line 10, insert:

"***(8) The maximum amount of credits to be authorized by the authority shall be three million dollars ($3,000,000) for each of fiscal years 2002-03 and 2003-04.***";

On page 42, lines 4 and 5, delete all new language;

On page 48, lines 6 through 9, delete them in their entirety;

On page 73, after line 26, insert:

"Section 39. KRS 164.6023 is amended to read as follows:

(1) The science and technology organization shall have the authority to review applications, qualify companies, and certify qualified companies.

(2) The science and technology organization shall develop application criteria and an application process subject to the following limitations. The proposed research and development project shall be likely to:

(a) Produce a measurable result and be technically sound;

(b) Lead to innovative technology or new knowledge;

(c) Lead to commercially successful products, processes, or services within a reasonable period of time; or

(d) Show significant potential for stimulating economic growth and a reasonable probability to enhance employment opportunities within the Commonwealth.

(3) The applicant shall provide to the science and technology organization an application that shall include, but not be limited to, the following information:

(a) Verification that the applicant is an eligible company that meets the definition of a Kentucky-based company and medium-size company or small company;

(b) A technical research plan that is sufficient for outside expert review;

(c) A detailed financial analysis that includes the commitment of resources by the applicant and others;

(d) Sufficient detail concerning proposed project partners, type and amount of work to be performed by each partner, and expected product or service with estimated costs to be reflected in the negotiated contract or agreement; and

(e) A statement of the economic development potential of the project.

(4) The science and technology organization shall conduct an independent review with the use of outside experts to evaluate each application. Following the application review, the science and technology organization shall make a determination of the application and may determine that the applicant is a qualified company as defined in KRS 164.6011.

(5) Upon a qualified company's presentation of a legal agreement or contract meeting the conditions under subsection (6) of this section the science and technology organization shall present ***the***[~~both~~] qualified company***, the project partner, if any,*** and ***the*** university ***in the Commonwealth*** with a certification authorizing voucher funding.

(6) Prior to receiving certification authorizing voucher funding from the science and technology organization, the qualified company shall:

(a) Negotiate an agreement and funding contract with a university in the Commonwealth ***and with a project partner, if any,*** that is satisfactory to the science and technology organization, to undertake the research and development work; and

(b) Provide assurance to the science and technology organization that the university and the qualified company have negotiated the ownership and disposition of patents, royalties, all other intellectual property rights, and equity or related position relating to the contract between the qualifying company and the university.

(7) Prior to certifying a qualified company, the science and technology organization may negotiate with the qualified company the ownership and disposition of patents, royalties, all other intellectual property rights, and an equity or related position on behalf of the Kentucky research and development voucher fund for the sole purpose of reinvesting and sustaining a revolving fund to carry out the provisions of KRS 164.6021, 164.6023, and 164.6025.

(8) The science and technology organization, upon approval by the council, shall set forth guidelines as to when and how all areas of the state will be notified about the program's availability and a program schedule, including, but not limited to, the

following:

(a) A review cycle including:

  1. A deadline for submission of applications at least biannually; and

  2. A deadline for reviewing applications of no more than one hundred twenty (120) days after the application submission deadline; and

(b) A deadline, from the date an applicant is determined to be a qualified company, by which certification shall be made. If certification is not made by that deadline the funding voucher award is made void.

Section 40. KRS 164.6025 is amended to read as follows:

Project funding in the Kentucky Research and Development Voucher Program shall have the following limitations:

(1) ***At a minimum, fifty-one percent (51%) of any*** voucher award funds from the state fund shall be expended within the university ***in the Commonwealth*** under contract;

(2) The maximum amount of voucher funds awarded to a qualified company shall not exceed one hundred thousand dollars ($100,000) each year for two (2) years, equal to a maximum of two hundred thousand dollars ($200,000); and

(3) At a minimum, the qualified company shall match the project award by a one-to-one dollar ratio for each year of the project. The science and technology organization has sole discretion to authorize an in-kind contribution in lieu of part of the industry match if the science and technology organization determines that the financial limitations of the qualified company warrants this authorization.";

On page 73, line 27, delete "39." and insert in lieu thereof "41.".

Floor Amendment No. 1 to **HB 736**, by Representative Riggs:

On page 1, line 2, at the beginning of the sentence, add the following: "***(1)***"; and

On page 1, line 2, before the word "The", insert the word "***Any***"; and

On page 1, line 2, bracket and strikethrough the word "The"; and

On page 1, line 2, after the word "agency", insert the words "***, except special districts,***"; and

On page 1, after line 5, insert the following:

"***(2) Special districts may follow the same procedures set out in subsection (1) of this section if the aggregate amount of the contract does not exceed ten thousand dollars ($10,000).***".

Floor Amendment No. 1 to **HCR 192**, by Representative Riggs:

On page 2, line 3, after the words "task force.", add the following: "The House and Senate chairmen of the Interim Joint Committee on Local Government shall serve as ex officio members"; and

On page 3, line 3, after the words "Research Commission", insert the words "and the Interim Joint Committee on Local Government".

Floor Amendment No. 2 to **HB 610**, by Representative Webb:

On page 1, line 3 after "imposed," insert "***which shall include only those persons eighteen (18) years of age or older at the time of the commission of the offense,***".

Floor Amendment No. 5 to the Committee Substitute No. 2 to **HB 68**, by Representative P. Clark:

On page 9, line 11, by inserting the following at the end of the line, "***except to apprehend a fugitive from justice or a person under hot pursuit.***"; and

On page 9, lines 12 and 13, by deleting same.

Floor Amendment No. 4 to the Committee Substitute No. 2 to **HB 68**, by Representative P. Clark:

On page 9, between lines 13 and 14, by inserting the following:

"SECTION 5. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "Automobile liability insurance policy" carries the same meaning as set out in KRS 304.20-040.

(2) Upon presentment of a sworn declaration by the policy holder that the policy holder and the named insureds under an

automobile liability insurance policy have complied during the preceding year with the provisions of Section 1 of this Act relating to seat belt usage, the policy holder shall be entitled to a refund from the insurer of ten percent (10%) of the total amount paid for any automobile insurance policy purchased by that policy holder from that insurer which was in force during the preceding year.

(3) Compliance with the provisions with Section 1 of this Act shall be measured from and beginning on July 1, 2003, and each subsequent first day of July."; and

By renumbering the subsequent sections accordingly.

Floor Amendment No. 2 to the Committee Substitute to **HB 553**, by Representative Rasche:

On page 4, line 26, after "children." by inserting a paragraph return and "*1.*" with a heading 4;

On page 5, line 9, after "(g)" by deleting all new language through line 17;

On page 5, line 18, by deleting "*(i)*";

On page 5, between lines 8 and 9, by inserting the following:

"*2. The administrative regulations shall address the nutrient density of items included for sale in vending machines or a la carte in the school cafeteria.*";

On page 5, line 25, by removing the brackets and strikethrough to restore the existing "(h)" and by deleting "*(j)*";

On page 5, line 26, by removing the brackets and strikethrough to restore the existing "(i)" and by deleting "*(k)*";

On page 6, line 2, by removing the brackets and strikethrough to restore the existing "(j)" and by deleting "*(l)*";

On page 6, line 5, by removing the brackets and strikethrough to restore the existing "(k)" and by deleting "*(m)*";

On page 6, line 7, by removing the brackets and strikethrough to restore the existing "(l)" and by deleting "*(n)*";

On page 7, beginning on line 12, by deleting all language in its entirety through the end of line 3, on page 10 and insert in lieu thereof the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) (a) The Kentucky Department of Education shall establish the job qualifications and professional development requirements for a school food service director, whether the director is a classified or certified employee. The Education Professional Standards Board shall establish the requirements to be a certified director of school food service.

(b) The department shall develop professional development requirements for cafeteria managers. The professional development shall include but not be limited to the following areas:

1. Nutrition education and menu planning;

2. Rules and regulations;

3. Sanitation;

4. Safety and first aid;

5. Food preparation and merchandising;

6. Equipment use and care; and

7. Efficient use of resources.

(2) Each school district shall appoint a school food service director who is responsible for the management and oversight of the food service program in the district, except two (2) or more contiguous districts may form one (1) "school food service area" and a school food service director shall be selected by the participating school superintendents to oversee the "school food service area."

SECTION 4. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Department of Education shall develop a framework for a comprehensive plan of coordinated school health that includes best practices and strategies for state agencies and local school districts to effectively address student health. The framework shall include the following eight (8) components:

(a) Comprehensive school health education;

(b) Physical education;

(c) School health services;

(d) School nutrition services;

(e) School counseling, psychological, and social services;

(f) Health school environment;

(g) School-site health promotion for staff; and

(h) Family and community involvement in schools.

(2) By January 1, 2003, the Department of Education shall submit the framework to the Legislative Research Commission and to the co-chairs of the Interim Joint Committee on Education.".

Floor Amendment No. 1 to the Committee Substitute to **HB 145**, by Representative Vincent:

On page 3, line 4 after "*facility*" insert "*or program*";

On page 3, from line 10 through line 12 delete "***The division shall also notify a department caseworker in the county where the juvenile is placed. The caseworker shall then monitor the placement and treatment of the juvenile***" and insert in lieu thereof "***The caseworker of the county of placement shall monitor the placement and treatment of the juvenile***";

On page 3, line 17 delete "*21*" and insert in lieu thereof "*19*";

On page 17, line 15 delete "***her***" and insert in lieu thereof "***she***";

On page 25, line 8 delete "*19*" and insert in lieu thereof "*1*"; and

On page 27, from line 15 through page 28, line 26 delete Sections 19 and 20 in their entirety and renumber subsequent sections accordingly.

Floor Amendment No. 3 to **HB 705**, by Representative Yonts:

On page 1, line 9, after "*KRS 353.590.*" by inserting "***With respect to permits issued prior to the effective date of this Act, no extension shall be granted for any permit in cases where there has been a complete severance of the ownership of the oil and gas from the ownership of the surface to be disturbed, unless the requested extension is agreed to in writing by the surface owner.***"

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 45, Representative Barrows

HB 319, Representatives Colter and Palumbo

HB 533, Representative Graham

HB 553, Representative Denham

HB 625, Representative Riggs

HB 637, Representatives De. Butler, P. Clark, Hoover, Sims, and Stewart

HB 644, Representative Colter

HB 654, Representative Colter

HB 660, Representative Gooch

HB 699, Representative P. Clark

HB 708, Representative Tapp

HB 721, Representative Baugh

HB 749, Representatives DeWeese and Feeley

HB 757, Representative Mobley

HB 789, Representative Jenkins

HB 819, Representatives P. Clark, Gooch, Horlander, Jenkins, and Stumbo

HB 831, Representative Stumbo

HB 839, Representative C. Belcher

HB 846, Representative Wilkey

HB 847, Representative Nunn

HCR 199, Representative P. Clark

HCR 185, Representative Nelson.

Announcements

The following meetings were announced:

Budget Review Subcommittee on Justice, Corrections, and Judiciary: Wednesday, March 6, 2002, upon adjournment

Budget Review Subcommittee on Human Resources: Wednesday, March 6, 2002, upon adjournment, Room 129

Licensing and Occupations, Wednesday: March 6, 2002, noon

State Government, Wednesday: March 6, 2002, upon adjournment, Room 149

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m. on Wednesday, March 6, 2002.

The motion that the House adjourn until 2:00 p.m., Wednesday, March 6, 2002, was adopted by voice vote.

WEDNESDAY, MARCH 6, 2002

FORTIETH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jana Hall, First Presbyterian Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bather and Walton.

Senate Message

Announcing passage of **SB 97, SB 113, SB 180, SB 185, SB 194, SB 230, SB 242, SCR 34,** and **HB 36**.

Message received in regard to **HB 32**: The Senate has passed **HB 32** with the following Senate Floor Amendment No. 1 and Senate Floor Amendment No. 2 and respectfully requests concurrence of this Honorable Body. (Time 2:10 p.m.)

Representative Ballard moved that the reading of the Journal of Tuesday, March 5, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Bowling moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Bowling moved the adoption of the following **Legislative Citation No. 68**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the members of the Danville High School Football Team upon winning the 2001 KHSAA Class A State Football Championship. Inasmuch as the members of this extraordinary team have enjoyed a stellar year, finishing the season with an overall record of 13 wins and two losses and capturing their second consecutive state championship, the members of this distinguished body are delighted to join with Representative John W. D. Bowling in commending the Danville High School Admirals for their well-deserved accolades and in extending best wishes for continued athletic success. Done in Frankfort, Kentucky, this twenty-seventh day of February, in the year two thousand and two.

Legislative Citation No. 68 was adopted without objection.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Resolutions:

State Government: **HCR 218**

Transportation: **HCR 220**

House Floor: **HR 221**

Report of Committees

The Committee on Rules reported that **SB 14** and **SB 149** have been posted for passage in the Orders of the Day for March 7, 2002.

Posting of Bills for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Health and Welfare: **SB 153**

Report of Committees

The Committee on Education reported **HB 681, HB 686, HB 755, HB 829, HJR 160, HCR 177,** with Committee Substitute attached thereto, **HCR 185, HJR 186, HJR 188, SB 132,** with House Committee Substitute attached thereto, and **SB 147** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 681, AN ACT relating to education research.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

(1) The Legislative Research Commission shall appoint an Education Research Technical Advisory Panel composed of no fewer than three (3) professionals or entities with nationally recognized expertise in education issues, but that may be expanded as needed to include additional expertise. The panel shall advise the Commission, the Education Assessment and Accountability Review Subcommittee, and the Office of Education Accountability on research studies that the subcommittee decides should be conducted, including advice on potential designees to conduct such research and potential research designs. The Commission is authorized to contract for the services and expenses of the panel members.

(2) The panel, and the individual members thereof, shall be an information resource for the Legislative Research Commission. The panel shall offer advice through consensus, or through the advice of one (1) or more panel members, if so requested by the Commission, the Education Assessment and Accountability Review Subcommittee or, upon approval of the subcommittee, the Office of Education Accountability.

(3) The Education Assessment and Accountability Review Subcommittee may, upon consideration of advice offered by the panel or upon its own initiative, recommend that the Legislative Research Commission approve contracting with a particular person or entity, which may include the Kentucky Institute for Education Research Board established by KRS 158.646, to conduct education research as defined by the subcommittee. Education research reports completed pursuant to this subsection shall be delivered to the subcommittee for its consideration. Upon acceptance by the subcommittee, the research reports shall be forwarded to the Legislative Research Commission.

HB 686, AN ACT relating to the qualifications of Kentucky Board of Education members.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.029 is amended to read as follows:

(1) There is hereby established a Kentucky Board of Education, which shall consist of eleven (11) members appointed by the Governor and confirmed by the Senate and the House of Representatives of the General Assembly, with the president of the Council on Postsecondary Education serving as an ex officio nonvoting member. Seven (7) members shall represent each of the Supreme Court districts as established by KRS 21A.010, and four (4) members shall represent the state at large. Each of the appointed members shall serve for a four (4) year term, except the initial appointments shall be as follows: the seven (7) members representing Supreme Court districts shall serve a term which shall expire on April 14, 1994; and the four (4) at-large members shall serve a term which shall expire on April 14, 1992. Subsequent appointments shall be submitted to the Senate and to the House of Representatives for confirmation in accordance with KRS 11.160. Each appointment by the Governor shall be agreed upon by both chambers in order for the person to be confirmed. Each confirmed appointee shall take office on April 15.

(2) Appointments shall be made without reference to occupation, political affiliation, or similar consideration. No member at the time of ***the member's***~~[his]~~ appointment or during the term of~~[his]~~ service shall be engaged as a professional educator ***in elementary or secondary education***. Pursuant to KRS 63.080, a member shall not be removed except for cause.

(3) A vacancy in the membership of the board shall be filled by the Governor for the unexpired term with the consent of the Senate and the House of Representatives. In the event that the General Assembly is not in session at the time of the appointment, the consent of the Senate and the House of Representatives shall be obtained during the time the General Assembly next convenes.

(4) At the first regular meeting of the board in each fiscal year, a chairperson shall be elected from its voting membership.

(5) The members shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(6) The commissioner of education shall serve as the executive secretary to the board.

(7) The primary function of the board shall be to develop and adopt policies and administrative regulations, with the advice of the Local Superintendents Advisory Council, by which the Department of Education shall be governed in planning, coordinating, administering, supervising, operating, and evaluating the educational programs, services, and activities within the Department of Education which are within the jurisdiction of the board.

HB 755, AN ACT relating to motor vehicles that have a limited exemption from being regulated as a motor carrier.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.605 is amended to read as follows:

The provisions of this chapter shall not apply, except as to safety regulations, to:

(1) Motor vehicles used as school buses and while engaged in the transportation of students, under the supervision and control and at the direction of school authorities;

(2) Except as provided in paragraph (e) of this subsection, motor vehicles, regardless of ownership, used exclusively:

(a) For the transportation of agricultural and dairy products, including fruit, livestock, meats, fertilizer, wood, lumber, cotton, products of grove or orchard, poultry, and eggs, while owned by the producer of the products, including landlord where the relation of landlord and tenant or landlord and cropper is involved, from the farm to a market, warehouse, dairy, or mill, or from one (1) market, warehouse, dairy, or mill to another market, warehouse, dairy, or mill;

(b) For the transportation of agricultural and dairy products, livestock, farm machinery, feed, fertilizer, and other materials and supplies essential to farm operation, from market or shipping terminal to farm;

(c) For both the purposes described in paragraphs (a) and (b) of this subsection;

(d) For the transportation of agricultural and dairy products from farm to regularly organized fairs and exhibits and return; or

(e) Motor vehicles used for the transportation of fly ash, in bags, sacks, or other containers, the aggregate weight of which does not exceed ten thousand (10,000) pounds; or bottom ash, waste ash, sludge, and pozatec which is being removed from the premises of a power generator facility for the purpose of disposal;

(3) Motor vehicles used exclusively as church buses and while operated in the transportation of persons to and from a church or place of worship or for other religious work under the supervision and control and at the direction of church authorities;

(4) Motor vehicles used exclusively for the transportation of property belonging to a nonprofit cooperative association or its members where the vehicle is owned or leased exclusively by the association;

(5) Motor vehicles owned in whole or in part by any person and used by such person to transport commodities of which such person is the bona fide owner, lessee, consignee, or bailee; provided, however, that such transportation is for the purpose of sale, lease, rent, or bailment, and is an incidental adjunct to an established private business owned and operated by such person within the scope and in furtherance of any primary commercial enterprise of such person other than the business of transportation of property for hire;

(6) Motor vehicles used in pick-up or delivery service within a city or within a city and its commercial area for a carrier by rail;

(7) Motor vehicles used exclusively for the transportation of coal from the point at which such coal is mined to a railhead or tipple where the railhead or tipple is located at a point not more than fifty (50) air miles from the point at which the coal is mined;

(8) Motor vehicles used as ambulances in transporting wounded, injured, or sick animals or as ambulances as defined in KRS 311.6521;

(9) Motor vehicles used by transit authorities as created and defined in KRS Chapter 96A except as required by KRS 96A.170. Vehicles operated under the authority and direct responsibility of such transit authorities, through contractual agreement, shall be included within this exemption, without regard to the legal ownership of the vehicles, but only for such times as they are operated under the authority and responsibility of the transit authority;

(10) Motor vehicles having a seating capacity of fifteen (15) or fewer passengers and while transporting persons between their places of residence, on the one hand, and, on the other, their places of employment, provided the driver himself is on his way to or from his place of employment, and further provided that any person who operates or controls the operation of vehicles hereunder of which said person is the owner or lessee, and any spouse of said person and any partnership or corporation with said person or his spouse having an interest therein doing such, shall be eligible to so operate an aggregate number of not more than one (1) vehicle on other than a nonprofit basis;

(11) Motor vehicles used to transport cash letters, data processing material, instruments, or documents, regardless of the ownership of any of said cash letters, data processing material, instruments, or documents;

(12) Motor vehicles operated by integrated intermodal small package carriers who provide intermodal-air-and-ground-

transportation. For the purposes of this section, "integrated intermodal small package carrier" shall mean an air carrier holding a certificate of public convenience and necessity or qualifying as an indirect air carrier that undertakes, by itself or through a company affiliated through common ownership, to provide intermodal-air-and-ground-transportation, and "intermodal-air-and-ground-transportation" shall mean transportation involving the carriage of articles weighing not more than one hundred fifty (150) pounds by aircraft or other forms of transportation, including by motor vehicle, wholly within the Commonwealth of Kentucky. The incidental or occasional use of aircraft in transporting packages or articles shall not constitute an integrated intermodal operation within the meaning of this section; or

(13) Motor vehicles operated pursuant to a grant of funds in furtherance of and governed by 49 U.S.C. secs. 5310 or 5311, including all amendments, and whose operators have jurisdictions and services approved annually by the Transportation Cabinet in accordance with 49 C.F.R. Title VI.

(14) Motor vehicles used to transport children to educational events or conservation camps run by, or sponsored by, the Department of Fish and Wildlife.

HB 829, AN ACT relating to campus safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Civil fines collected by the state fire marshal pursuant to Section 4 of this Act shall be paid into the State Treasury and credited to a trust and agency fund known as the "Michael Minger/Priddy fire prevention fund." The funds shall be used by the fire marshal to educate students and personnel of postsecondary education institutions regarding the dangers of fire and methods of fire prevention, and to investigate the source of any fires or threats of fire that take place on the campus of a postsecondary education institution. No portion of this fund shall lapse into the general fund at the end of the year.

Section 2. KRS 164.948 is amended to read as follows:

As used in KRS 164.9481, 164.9483, and 164.9485, unless the context requires otherwise:

(1) "Campus" means all property owned, managed, or controlled by an institution of postsecondary education including, but not limited to, academic buildings; student housing and recreational facilities; residential facilities operated by any officially recognized student organization; all sections of public property such as streets, sidewalks, and parking facilities immediately contiguous to campus buildings; and remote facilities leased for use as classroom space or student living.

(2) "Campus security authority" means campus police, security officers, and any official at a postsecondary education institution who has significant responsibility for student and campus activities, including student discipline, student housing, student judicial affairs, and student life administration. Professional mental health, pastoral, and other licensed counselors when functioning in that capacity are not considered campus security authorities.

(3) "Crime" means murder, manslaughter, reckless homicide, assault, menacing, wanton endangerment, terroristic threatening, stalking, forcible or nonforcible sex offenses, burglary, criminal damage to property, arson, theft, motor vehicle theft, robbery, weapons possession and criminal attempt for any of the aforementioned crimes, and arrests for drug-related violations and liquor law violations.

(4) ***"Immediately" means before the last fire unit has left the scene in order for the fire marshal's office to have the opportunity to speak with fire unit personnel before they leave the scene, but no later than two (2) hours following the time the fire or threat of fire is discovered. In the event of a minor fire to which the local fire officials are not called or do not respond, "immediately" means no later than one (1) hour following the discovery of the fire.***

(5) "Postsecondary education institution" means any Kentucky public four (4) year institution or two (2) year community college or technical college that grants a postsecondary education credential, and any private college or university that is licensed by the Council on Postsecondary Education under KRS 164.945 to 164.947.

Section 3. KRS 164.9483 is amended to read as follows:

(1) Under the provisions of KRS Chapter 227, the state fire marshal shall have jurisdiction over all property in the state including property of public postsecondary education institutions and property of any private college or university that is licensed by the Council on Postsecondary Education as provided for by KRS 164.945 to 164.947, insofar as it is necessary for the administration and enforcement of any duty imposed on the office by law or administrative regulation and all laws, ordinances, regulations, and orders designed to protect the public from fire loss.

(2) The state fire marshal or the fire marshal's employee or appointee may, without delay or advance notice and at all reasonable hours of the day or night, enter in or upon any property defined under KRS 227.200 located on the campus to make an inspection, investigation, or any other action necessary for the purpose of preventing fire loss or determining the origin of any fire.

(3) No person shall obstruct, hinder, or delay such an officer in the performance of his or her duty.

(4) Upon learning of a fire or threat of fire, ***a*** campus security ***authority designated by the college or university president to be responsible and liable for reporting***[~~authorities~~] shall immediately report each fire or threat of fire to the state fire marshal's office in Frankfort and the local deputies, assistants, and employees appointed under KRS 227.230. ***No fire***

scene located on a campus shall be cleared or cleaned without the express consent of the state fire marshal to do so after a representative of the fire marshal's office has had an opportunity to investigate the scene.

Section 4. KRS 164.993 is amended to read as follows:

(1) Any person***, including campus personnel, who knowingly violates***[~~violating~~] the provisions of KRS 164.9481 and 164.9483, or who knowingly induces another, directly or indirectly, to violate the provisions of those sections, shall be fined not less than five hundred dollars ($500), nor more than one thousand five hundred dollars ($1,500), or imprisoned in the county jail for up to thirty (30) days, or both.

(2) In addition to the penalties required in subsection (1) of this section, any person, or any postsecondary education institution, who violates the provisions of Section 3 of this Act shall be liable for a civil penalty of not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000) per violation for each day the violation occurs or remains in effect. The state fire marshal shall have the authority, after investigation, to assess and collect the fines. Any person or postsecondary education institution aggrieved by an assessment of a civil fine may appeal to the Franklin Circuit Court.

HJR 160, A JOINT RESOLUTION requesting the Kentucky Department of Education to provide education and training to school personnel regarding the use of psychotropic drugs as a part of children's treatment; urging the Cabinet for Families and Children to ensure that a parent's refusal to allow a child to receive psychotropic drugs as a part of treatment not be used as the sole grounds for taking a child into custody; and requesting the Kentucky Commission on Services and Support for Individuals with Mental Illness, Alcohol, and Other Drug Abuse Disorders, and Dual Diagnoses, and Regional Mental Health Planning Councils to study the issues relating to psychotropic drugs in Kentucky.

WHEREAS, there are an estimated six million children in the United States between the ages of six and eighteen taking psychotropic drugs; and

WHEREAS, there appears to be an increase in prescribing psychotropic drugs to children, with the number of 2- to 4-year-olds on such drugs increasing three-fold between 1991 and 1995, according to a recently released study published in the American Journal of Medicine; and

WHEREAS, national media attention has focused concern on the use and unknown long-term effects of stimulants like Ritalin, amphetamines like Dexedrine, and antidepressants like Paxil, Prozac, and Zoloft for children; and

WHEREAS, psychotropic drugs have been effective in helping children with attention deficit disorder or attention deficit hyperactivity disorder and have been found in some studies to be more effective than behavioral therapy; and

WHEREAS, most psychotropic drugs have not been FDA-approved for pediatric use; and

WHEREAS, there is increasing concern that some psychotropic drug side effects may cause some persons to become intensely nervous, restless, and anxious and, some persons suggest, more violent; and

WHEREAS, research is needed to determine the long-term safety of psychotropic medications in light of earlier ages of initiation and longer duration of treatment; and

WHEREAS, there is no biological test for most mental illnesses; and

WHEREAS, there is general agreement that disorders such as attention deficit disorder or attention deficit hyperactivity disorder cannot be diagnosed appropriately by any single person regardless of training; and

WHEREAS, there is lack of agreement among professionals regarding the identification and treatment of students with attention problems and other mental disorders; and

WHEREAS, it is important that children's mental health needs be recognized but that caution be exercised in suggesting treatment;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby requests that the Kentucky Department of Education annually provide training and information to local school district personnel regarding the use of psychotropic drugs for the treatment of attention disorders and other mental disorders. The department should provide guidelines for school personnel to use in carrying out appropriate roles when consulting with parents and qualified professionals, including mental health professionals, and procedures to use when recommending that a child be evaluated by a qualified mental health professional.

Section 2. The General Assembly hereby urges that the Cabinet for Families and Children adopt a policy that if a mental health professional has recommended that a child receive a psychotropic drug as part of the child's treatment and the parent refuses, the refusal shall not, in and of itself, constitute grounds for the cabinet to take the child into custody or for any court of competent jurisdiction to order that a child be taken into custody by the cabinet, unless the refusal causes the child to be neglected or abused, as defined under the provisions of KRS Chapter 620.

Section 3. The General Assembly hereby requests that the Kentucky Commission on Services and Support for Individuals with Mental Illness, Alcohol, and Other Drug Abuse Disorders, and Dual Diagnoses, and the Regional Mental Health Planning Councils to study the issues relating to the use of psychotropic drugs by children in Kentucky schools and to report to the Interim Joint Committee on Health and Welfare and the Interim Joint Committee on Education no later than October 1, 2003.

HCR 177, A CONCURRENT RESOLUTION directing the Interim Joint Committee on Education to study education leadership.

WHEREAS, the goal of all schools achieving proficiency by 2014 demands raising achievement for all students in the Commonwealth, with no individual student or groups of students left behind, and strong leadership focused on quality teaching and learning by students; and

WHEREAS, strong leadership involves superintendents and principals supporting high academic performance, positive learning environments and effective use of resources and has long been recognized as vital to school success and improved student achievement in the Commonwealth; and

WHEREAS, local school boards, school-based decision making councils, teachers, students, parents and others have important leadership roles in order for schools and districts to meet high academic standards; and

WHEREAS, the changing roles and demands in the public schools necessitate concomitant changes for preparation programs to work in partnership with schools in recruiting, developing and keeping high quality leaders and supporting leadership teams in schools across the Commonwealth; and

WHEREAS, the Commonwealth of Kentucky was awarded one of fifteen National State Action for Educational Leadership Project grants from the Wallace-Readers Digest Funds, with the Kentucky Department of Education serving as the grantee on behalf of a state leadership consortium comprised of the Governor's Office, the General Assembly, the Kentucky Board of Education, the Education Professional Standards Board, and many educational stakeholders, including employers, parents, practitioners, and university preparation programs; and

WHEREAS, the "Kentucky Leadership Consortium" is reviewing the changing roles and demands of educational leaders and is seeking information from stakeholders and current practitioners, aspiring principals and superintendents and the large number of individuals who are certified for leadership positions but who have not applied or been employed as principals and superintendents, including qualified women and minorities;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Interim Joint Committee on Education is directed to conduct a study of education leadership. The Committee shall hear progress reports and recommendations from the "Kentucky Leadership Consortium" concerning the Commonwealth's needs, including policy and legislative changes that may be necessary to support strong leaders for every public school in the state. The final study, including any recommended legislation, shall be completed no later than October, 2003.

Section 2. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and designate a study completion date.

The Committee Substitute to **HCR 177** is as follows:

HCR 177, A CONCURRENT RESOLUTION directing the Interim Joint Committee on Education to study education leadership.

WHEREAS, the goal of all schools achieving proficiency by 2014 demands raising achievement for all students in the Commonwealth, with no individual student or groups of students left behind, and strong leadership focused on quality teaching and learning by students; and

WHEREAS, strong leadership involves superintendents and principals supporting high academic performance, positive learning environments and effective use of resources and has long been recognized as vital to school success and improved student achievement in the Commonwealth; and

WHEREAS, local school boards, school-based decision making councils, teachers, students, parents and others have important leadership roles in order for schools and districts to meet high academic standards; and

WHEREAS, the changing roles and demands in the public schools necessitate concomitant changes for preparation programs to work in partnership with schools in recruiting, developing and keeping high quality leaders and supporting leadership teams in schools across the Commonwealth; and

WHEREAS, the Commonwealth of Kentucky was awarded one of fifteen National State Action for Educational Leadership Project grants from the Wallace-Readers Digest Funds, with the Kentucky Department of Education serving as the grantee on behalf of a state leadership consortium comprised of the Governor's Office, the General Assembly, the Kentucky Board of Education, the Education Professional Standards Board, the Council on Postsecondary Education, and many educational stakeholders, including employers, parents, practitioners, and university preparation programs; and

WHEREAS, the "Kentucky Leadership Consortium" is reviewing the changing roles and demands of educational leaders and is seeking information from stakeholders and current practitioners, aspiring principals and superintendents and the large number of individuals who are certified for leadership positions but who have not applied or been employed as principals and superintendents, including qualified women and minorities;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Interim Joint Committee on Education is directed to conduct a study of education leadership. The Committee shall hear progress reports and recommendations from the "Kentucky Leadership Consortium" concerning the Commonwealth's needs, including policy and legislative changes that may be necessary to support strong leaders for every public school in the state. The final study, including any recommended legislation, shall be completed no later than October, 2003.

Section 2. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and designate a study completion date.

HCR 185, A CONCURRENT RESOLUTION designating February as Character Education Month in Kentucky.

WHEREAS, character education strives to teach and reinforce core ethical values of caring, honesty, fairness, responsibility, and respect for self and others; and

WHEREAS, effective character education programs encompass positive development of the cognitive, emotional, and behavioral aspects of all Kentucky students; and

WHEREAS, character education requires an intentional, proactive, and comprehensive approach to developing and implementing the core ethical values in all aspects of life; and

WHEREAS, character education must be embodied in a caring school community that provides students the opportunity to develop core values by participating in cooperative learning groups, reaching consensus in class meetings and projects, carrying out service learning projects, and reducing fights and other altercations on playgrounds and other recreational settings; and

WHEREAS, character education has direct application to the development of higher level academic skills, including problem-solving, tolerance for other perspectives or points of view, and the development and testing of options and alternatives to resolve conflicts or disputes; and

WHEREAS, the Kentucky General Assembly in the year 2000 declared character education as one of the basic skills Kentucky public schools should ensure students have developed prior to graduation;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The month of February is designated as Character Education month and the Department of Education is encouraged to publicize and promote the efforts of Kentucky public schools to instill the core values of self-sufficiency, altruism, citizenship, courtesy, honesty, human worth, justice, knowledge, respect, responsibility, and self-discipline in Kentucky students.

HJR 186, A JOINT RESOLUTION directing the Department of Education to study issues related to personal safety education and sex education in public schools.

WHEREAS, the 2001 Youth Risk Behavior survey conducted by the University of Kentucky's Center for Prevention Research found that 54 percent of Kentucky high school students report having had sexual intercourse; and

WHEREAS, the Youth Risk Behavior Survey found that 42 percent of Kentucky high school students report being sexually active within the last three months prior to the survey; and

WHEREAS, the Youth Risk Behavior Survey found that 35 percent of Kentucky high school students report having multiple sexual partners; and

WHEREAS, the Youth Risk Behavior Survey found that 13 percent of Kentucky high school students report having no education about HIV or AIDS that they remember; and

WHEREAS, in the year 2000, the National Campaign to Prevent Teenage Pregnancy reported that there were 12,670 pregnancies to Kentucky females between the ages of 15 and 19; and

WHEREAS, in the year 2000, the Centers for Disease Control and Prevention reported that Kentucky had 1,633 citizens living with AIDS; and

WHEREAS, in the year 2000, the Centers for Disease Control and Prevention reported that nationally, more than one-half of people ages 13 to 24 who are diagnosed with AIDS were exposed to the virus through sexual contact; and

WHEREAS, in the year 2000, the Kentucky Department for Public Health reported noticeable increases of chlamydia and gonorrhea in the 15 to 24-year-old age group; and

WHEREAS, evidence exists that a significant number of Kentucky high school students are engaging in sexual intercourse and that this sexual activity represents a significant risk to the health and well-being of Kentucky students; and

WHEREAS, the Kentucky Department of Education does not have the information or data to report on the content or efficacy of the sex education and personal safety curricula of local school districts;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Department of Education shall survey all local school districts to collect data and information pertaining to the content and efficacy of sex education and personal safety curricula utilized in Kentucky public schools.

Section 2. The Kentucky Department of Education shall report its findings to the Legislative Research Commission and the co-chairs of the Interim Joint Committee on Health and Welfare and the co-chairs of the Interim Joint Committee on Education no later than April 1, 2003. The report shall compare and contrast the content and efficacy of curricula used by Kentucky public schools relative to curricula used by schools in other states, and nationally recognized curricula standards.

HJR 188, A JOINT RESOLUTION urging local school districts, postsecondary education institutions, the Kentucky Department of Education, and other education entities to promote the formation of Future Educators Clubs.

WHEREAS, Kentucky is facing critical teacher shortages; and

WHEREAS, it is essential that quality teaching be made available to all Kentucky students; and

WHEREAS, it is in Kentucky's best interest that the best and brightest students be recruited into the field of teaching; and

WHEREAS, Future Educators Clubs, sponsored by Phi Delta Kappa, help middle and high school students explore careers in education, provide service opportunities to students, and offer schools and communities a chance to "grow their own teachers"; and

WHEREAS, Future Educators Clubs serve to elevate the role of teachers and provide new opportunities for communication about education and its place in the community; and

WHEREAS, Future Educators Clubs help teachers examine and explain their role in students' lives; and

WHEREAS, Future Educators Clubs can create a positive image of teaching for students, parents, and other citizens; and

WHEREAS, Future Educators Clubs currently do not exist widespread across Kentucky;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly urges the Kentucky Department of Education to utilize a portion of existing funds designated for teacher recruitment to provide planning grants to local school districts to organize local Future Educators Clubs.

Section 2. The General Assembly requests that the Kentucky Department of Education initiate discussions and planning activities with public and private postsecondary education institutions, local school districts, and other education entities and professionally related organizations to develop a coordination plan for the development of Future Educators Clubs. The purpose of the coordination plan is to produce the following result:

(a) Identification of a lead agency or lead agencies to coordinate the development of Future Educators Clubs or other appropriate design for coordination;

(b) Assistance to local teachers to establish local Future Educators Clubs;

(c) An annual statewide conference for members of Future Educators Clubs;

(d) Access to resource materials and training to aid in the development of local Future Educators Clubs;

(e) Coordination and leadership for local districts that request assistance;

(f) Access to scholarships for students who choose teaching as a career path; and

(g) Other outcomes as determined by the group.

SB 132, AN ACT relating to increasing student achievement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) A school subject to a scholastic audit for not meeting its accountability goal under KRS 158.6453 that has a school council identified as failing to promote student academic achievement shall include in its school improvement plan actions to strengthen the school council and the school-based decision making process at the school. The local school district also shall include in its assistance plan for the school actions to strengthen the functioning of the school

council and the school-based decision making process at the school.

(2) (a) A scholastic audit team, established under Section 7 of this Act, auditing a school that for two (2) successive accountability cycles failed to meet its goal and has declining student performance, shall consider the functioning of the school council and make recommendations concerning the council in the improvement plan. The team shall recommend to the commissioner of education whether the school council shall retain the authority granted to it under Section 9 of this Act. If the recommendation is to transfer the authority of the school council, the team shall also recommend whether:

1. The authority shall be transferred to the superintendent or a highly skilled educator; and

2. The school council shall continue to act in an advisory capacity until all authority has been restored under subsection (5) of this section.

(b) A scholastic audit team, established under Section 7 of this Act, auditing a district of a school subject to subsection (2)(a) of this section, shall consider the functioning of the school district and make recommendations concerning the school's council in the district's assistance plan. If the recommendation is to transfer the authority of the school council, the team shall also recommend whether:

1. The authority shall be transferred to the superintendent or a highly skilled educator; and

2. The school council shall continue to act in an advisory capacity until all authority has been restored under subsection (5) of this section.

(3) (a) If the school and district audit teams recommend transfer of the council's authority to the superintendent, the commissioner of education shall transfer the council's authority under Section 9 of this Act to the superintendent. The commissioner shall determine whether the school council shall continue in an advisory capacity and shall notify the local board of education, the district superintendent, the principal of the school, and the school council of the action.

(b) 1. Within thirty (30) days of the commissioner's action, the school council may request that the Kentucky Board of Education consider the matter by submitting a written request including any supporting information. The Kentucky Board of Education shall consider the audit reports, the commissioner's decision, and the request for consideration and make a final determination.

2. If both the audit teams recommend transfer of the council's authority to a highly skilled educator or if they recommend transfer of the council's authority but are not in agreement as to the party granted the council's authority, the commissioner shall make a recommendation to the Kentucky Board of Education, which shall make the final determination. The school council and the superintendent may submit supporting information. The commissioner shall recommend whether the school council shall continue in an advisory capacity and shall notify the local board of education, the district superintendent, the principal of the school, and the school council members of the recommendation and the Kentucky Board of Education's final action.

(4) Subject to the policies adopted for the district by the local board of education, the local district superintendent or the highly skilled educator shall assume all powers, duties, and authority granted to a school council under Section 9 of this Act thirty (30) days following the commissioner's recommendation if no request for consideration by the Kentucky Board of Education is requested or following the determination of the Kentucky Board of Education, whichever is appropriate.

(5) Within thirty (30) days after assuming the powers, duties, and authority listed in subsection (4) of this section, the superintendent or highly skilled educator shall consult with the council and with stakeholders at the school and prepare a plan for developing capacity for sound school-based decision making at the school. The commissioner of education shall review the plan and approve it as adequate or identify specific areas for improvement. The superintendent or highly skilled educator shall report to the commissioner every six (6) months on the implementation and results of the approved plan.

(6) The school's right to establish a council or the school's right for the council to assume the full authority granted under Section 9 of this Act shall be restored when the school meets its accountability goal for an accountability cycle as determined by the Kentucky Department of Education under Section 7 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Department of Education shall administer a program to provide assistance to schools that have a significant gap in academic performance among the various groups of students as shown by the Commonwealth Accountability Testing System including nonminority and minority students as defined in Section 9 of this Act. The assistance shall include part-time technical assistance provided by a teacher or administrator who is retired and has demonstrated the ability to facilitate high academic achievement for diverse learners, including minority students. The technical assistance shall include, but not be limited to:

(a) A review of the school's scholastic audit or scholastic review, if applicable;

(b) A review of the school council's plan to address individual student needs required under subsection (2)(j) of Section 9 of this Act, if applicable.

(c) An equity audit including a review of the placements for minority students, including the identification of students with disabilities, disciplinary actions, course-taking patterns, and the selection for gifted and talented programs, advanced placement courses, and honors programs; and

(d) Instructional strategies.

(2) The school council, or the principal if a school council does not exist, shall submit an application for technical assistance through the local superintendent. The application shall include:

(a) The subject areas in which a gap in performance exists;

(b) The number of students adversely impacted by the gap in achievement; and

(c) The need for technical assistance.

(3) To the extent possible. the Department of Education shall use the following school selection criteria:

(a) The greatest gap in academic achievement;

(b) The total number of students impacted; and

(c) Geographical distribution.

SECTION 3. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly recognizes the value of the public education system and has provided great resources to assist schools in providing a quality education for all students. State government employees have many talents to share with students and their participation as volunteer mentors in the public schools shall be considered a public service.

(2) The term "state employee," for the purposes of this section means a person who is regularly employed by any department, board, agency, or branch of state government including employees of state institutions of postsecondary education, but shall not mean employees of local school boards.

(3) A state employee may be granted leave from work with pay, in accordance with subsection (4) of this section for up to a total of five (5) work days from the agency in any twelve (12) month period to participate as a volunteer mentor in a student mentoring program in a public school that is identified by the Kentucky Department of Education as a low-performing school. The employee shall match the time allowed by the agency by using the employee's annual leave, compensatory leave, leave without pay, or personal time outside the work week.

(4) Upon application by the state employee, the employing agency may grant leave at the regular rate of pay for the work hours during which the employee is absent from work which shall be in addition to all other leave to which the employee is entitled. The application shall include a statement from the public school describing the mentoring activities of the volunteer and how the activities are part of an overall strategy to improve student performance in the school. Duties performed while serving as a volunteer mentor shall not be considered to be a work assignment by a state agency. The employee's activities as a volunteer mentor shall not be directed by the agency, but shall be determined by the public school.

(5) The agency may require reports from the employee and the public school related to the volunteer mentor's participation and attendance in the mentoring activities.

(6) The state agency shall not be liable for worker's compensation benefits arising from accident or injury while the state employee is on assignment as a volunteer in the public school.

Section 4. KRS 157.320 is amended to read as follows:

As used in KRS 157.310 to 157.440, unless the context otherwise requires:

(1) "Average daily attendance" means the aggregate days attended by pupils in a public school, adjusted for weather-related low attendance days if applicable, divided by the actual number of days the school is in session, after the five (5) days with the lowest attendance have been deducted.

(a) Aggregate days shall include, in addition to the aggregate number of days attended by a pupil who was suspended during a school year, the number of days the pupil was suspended, not to exceed ten (10) days in total for the school year; and

(b) Aggregate days shall include, in addition to the aggregate number of days attended by a pupil who was expelled for behavioral problems, the number of days the pupil was expelled up to a total of *the minimum annual instructional days or the equivalent as provided in Section 6 of this Act*[~~one hundred seventy-five (175) days~~]. This total may extend into the next school year and shall be counted in the average daily attendance for the next year;

(2) "Base funding level" means a guaranteed amount of revenue per pupil to be provided for each school district, to be used for regular operating and capital expenditures;

(3) "Board" means the board of education of any county or independent school district;

(4) "District" means any school district as defined by law;

(5) "Elementary school" means a school consisting of the primary school program through grade eight (8) as defined in KRS 158.030, or any appropriate combination of grades within this range, as determined by the plan of organization for schools

authorized by the district board;

(6) "Support Education Excellence in Kentucky" means the level of educational services and facilities which is to be provided in each district from the public school fund;

(7) "Kindergarten full-time equivalent pupil in average daily attendance" means each kindergarten pupil counted no more than one-half (1/2) day in the aggregate days attended by kindergarten pupils in a public school divided by the actual number of days school is in session after the five (5) days with the lowest attendance have been deducted. Kindergarten is the entry level of the primary program and shall be provided no less than the equivalent of one-half (1/2) day, five (5) days a week for a full school year for each kindergarten pupil;

(8) "Public school fund" means the fund created by KRS 157.330 for use in financing education in public elementary and secondary schools;

(9) "Administrative regulations of the Kentucky Board of Education" means those regulations which the Kentucky Board of Education may adopt upon the recommendation and with the advice of the commissioner of education. The commissioner of education shall recommend administrative regulations necessary for carrying out the purposes of KRS 157.310 to 157.440;

(10) "Experience" means employment as a teacher, other than as a substitute or nursery school teacher, for a minimum of one hundred forty (140) days during a school year in a public or nonpublic elementary or secondary school or college or university that is approved by the public accrediting authority in the state in which the teaching duties were performed. A teacher who is employed by a board for at least one hundred forty (140) days of a school year and who performs teaching duties for the equivalent of at least seventy (70) full school days during that school year, regardless of the schedule on which those duties were performed, shall be credited with one (1) year of experience. A teacher who is employed by a board for at least one hundred forty (140) days during each of two (2) school years and who performs teaching duties for the equivalent of at least seventy (70) full school days during those years shall be credited with one (1) year of experience. No more than one (1) year of experience shall be credited for the performance of teaching duties during a single school year;

(11) "Secondary school" means a school consisting of grades seven (7) through twelve (12), or any appropriate combination of grades within this range as determined by the plan of organization for schools authorized by the district board. When grades seven (7) through nine (9) or ten (10) are organized separately as a junior high school, or grades ten (10) through twelve (12) are organized separately as a senior high school and are conducted in separate school plant facilities, each shall be considered a separate secondary school for the purposes of KRS 157.310 to 157.440;

(12) "Single salary schedule" means a schedule adopted by a local board from which all teachers are paid for ***the minimum school term as provided in Section 6 of this Act***[~~one hundred eighty-five (185) days~~] and is based on training, experience, and such other factors as the Kentucky Board of Education may approve and which does not discriminate between salaries paid elementary and secondary teachers. If the budget bill contains a minimum statewide salary schedule, no teacher shall be paid less than the amount specified in the biennial budget salary schedule for the individual teacher's educational qualifications and experience;

(13) ***"Student with limited English proficiency" means a student who:***

(a) Was not born in the United States or whose native language is a language other than English and comes from an environment where a language other than English is dominant; or

(b) Is a Native American or Alaska Native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on that individual's level of English language proficiency; or

(c) Is migratory and whose native language is other than English and comes from an environment where a language other than English is dominant; and

(d) Who has sufficient difficulty speaking, reading, writing, or understanding the English language and whose difficulties may deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

(14) "Teacher" means any regular or special teacher, principal, supervisor, superintendent, assistant superintendent, librarian, director of pupil personnel, or other member of the teaching or professional staff engaged in the service of the public elementary and secondary school for whom certification is required as a condition of employment;

(15)[~~(14)~~] "Percentage of attendance" means the aggregate days attended by pupils in a public school for the school year divided by the aggregate days' membership of pupils in a public school for the school year;

(16)[~~(15)~~] "Middle school" means a school consisting of grades five (5) through eight (8) or any appropriate combination of grades as determined by the plan of organization for schools authorized by the district board;

(17)[~~(16)~~] "National board certification salary supplement" means an annual supplement added for the life of the certificate to the base salary of a teacher who attains national board certification; and

(18)[~~(17)~~] "Weather-related low attendance day" means a school day on which the district's attendance falls below the average daily attendance for the prior year due to inclement weather. The district shall submit a request to substitute the prior year's average daily attendance for its attendance on up to ten (10) designated days, along with documentation that the low attendance was due to inclement weather, for approval by the commissioner of education in accordance with Kentucky Board of Education administrative regulations.

Section 5. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the program to support education excellence in Kentucky, the statewide guaranteed base funding level, as defined in ***Section 4 of this Act***[~~KRS 157.320~~], shall be computed by dividing the amount appropriated for this purpose by the prior year's statewide average daily attendance.

(2) Each district shall receive an amount equal to the base funding level for each pupil in average daily attendance in the district in the previous year. Each district's base funding level shall be adjusted by the following factors:

(a) The number of at-risk students in the district. At-risk students shall be identified as those approved for the free lunch program under state and federal guidelines. The number of at-risk students shall be multiplied by a factor to be established by the General Assembly. Funds generated under this paragraph may be used to pay for:

1. Alternative programs for students who are at risk of dropping out of school before achieving a diploma; and

2. A hazardous duty pay supplement as determined by the local board of education to the teachers who work in alternative programs with students who are violent or assaultive;

(b) The number and types of exceptional children in the district as defined by KRS 157.200. Specific weights for each category of exceptionality shall be used in the calculation of the add-on factor for exceptional children;[~~ and~~]

(c) ***The number of students with limited English proficiency as defined by the Kentucky Board of Education shall be multiplied by a factor to be established by the General Assembly; and***

(d) Transportation costs. The per-pupil cost of transportation shall be calculated as provided by KRS 157.370. Districts which contract to furnish transportation to students attending nonpublic schools may adopt any payment formula which assures that no public school funds are used for the transportation of nonpublic students.

(3) The program to support education excellence in Kentucky shall be fully implemented by the 1994-95 school year.

(4) (a) Except for those schools which have implemented school-based decision making, the chief state school officer shall enforce maximum class sizes for every academic course requirement in all grades except in vocal and instrumental music, and physical education classes. Except as provided in subsection (5) of this section, the maximum number of pupils enrolled in a class shall be as follows:

1. Twenty-four (24) in primary grades (kindergarten through third grade);

2. Twenty-eight (28) in grade four (4);

3. Twenty-nine (29) in grades five (5) and six (6);

4. Thirty-one (31) in grades seven (7) to twelve (12);

(b) Except for those schools which have implemented school-based decision making, class size loads for middle and secondary school classroom teachers shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.

(c) The chief state school officer, upon approval of the Kentucky Board of Education, shall adopt administrative regulations for enforcing this provision. These administrative regulations shall include procedures for a superintendent to request an exemption from the Kentucky Board of Education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in the primary grades and grades four (4) through eight (8).

(d) In all schools the chief state school officer shall enforce the special education maximum class sizes set by administrative regulations adopted by the Kentucky Board of Education. A superintendent may request an exemption pursuant to paragraph (c) of this subsection. A local school council may request a waiver pursuant to KRS 156.160(2). An exemption or waiver shall not be granted if the increased class size will impede any exceptional child from achieving his individual education program in the least restrictive environment.

(5) In grades four (4) through six (6) with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes. In combined classes other than the primary grades, no ungraded students shall be placed in a combined class with graded students. In addition, there shall be no more than two (2) consecutive grade levels combined in any one (1) class in grades four (4) through six (6). However, this shall not apply to schools which have implemented school-based decision making.

(6) If a local school district, through its admission and release committee, determines that an appropriate program in the least restrictive environment for a particular child with a disability includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, the school district shall count as average daily attendance in a public school the time that the child is in attendance at the school or agency, contingent upon approval by the chief state school officer.

(7) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers who are actually employees of the joint or cooperative action shall be considered as employees of each school district which is a party to the agreement.

(8) Program funding shall be increased when the average daily attendance in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district for the first two (2) months of the previous school year. The program funds allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.

(9) If the average daily attendance for the current school year in any district decreases by ten percent (10%) or more than the average daily attendance for the previous school year, the average daily attendance for purposes of calculating program funding for the next school year shall be increased by an amount equal to two-thirds (2/3) of the decrease in average daily attendance. If the average daily attendance remains the same or decreases in the succeeding school year, the average daily attendance for purposes of calculating program funding for the following school year shall be increased by an amount equal to one-third (1/3) of the decrease for the first year of the decline.

(10) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the program funding allotted the district for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(11) (a) Instructional salaries for vocational agriculture classes shall be for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the Division of Secondary Vocational Education in the Department of Education. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.

(b) Each teacher of agriculture employed shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the State Department of Education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the chief state school officer a completed report of summer tasks for each vocational agriculture teacher. Twenty percent (20%) of the approved vocational agriculture programs shall be audited annually by the State Department of Education to determine that the summer plan has been properly executed.

(12) (a) In allotting program funds for home and hospital instruction, statewide guaranteed base funding, excluding the capital outlay, shall be allotted for each child in average daily attendance in the prior school year who has been properly identified according to Kentucky Board of Education administrative regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education; and

(b) Pursuant to administrative regulations of the Kentucky Board of Education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by administrative regulations to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, and a reasonable allotment for travel expenses to and from instructional assignments, but the formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported annually on forms provided by the Department of Education.

(13) Except for those schools which have implemented school-based decision making and the school council has voted to waive this subsection, kindergarten aides shall be provided for each twenty-four (24) full-time equivalent kindergarten students enrolled.

(14) Effective July 1, 2001, there shall be no deduction applied against the base funding level for any pupil in average daily attendance who spends a portion of his or her school day in a program at a state-operated career and technical education or vocational facility.

Section 6. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour instructional days. A board of education may extend its term beyond the minimum

term. ***If the General Assembly provides funding for additional instructional days, a local board of education may choose to use the funding it would receive for additional instructional days over one hundred seventy-five (175) days to provide a longer school calendar in a low-performing school as designated by the Department of Education. The Department of Education shall establish the necessary calculations to assure that districts are reimbursed the same amount of funds under Section 5 of this Act that they would receive if all schools were in session. This provision shall not apply if the General Assembly provides more than one hundred eighty (180) instructional days.***

(2) The local board of education, upon recommendation of the local school district superintendent, shall adopt a school calendar for the upcoming school year that establishes the opening and closing dates of the school term, beginning and ending dates of each school month, instructional days, and days on which schools shall be dismissed. The local board may schedule days for breaks in the school calendar that shall not be counted as a part of the minimum school term.

(3) Any local board of education operating its schools on a year-round school program basis shall conform with administrative regulations promulgated and adopted by the Kentucky Board of Education upon the recommendation of the commissioner of education, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum instructional term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(4) (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of pupils pursuant to the requirements of KRS 156.095. At the discretion of the superintendent, one (1) day of professional development may be used for district-wide activities and for training that is mandated by federal or state law. The use of three (3) days shall be planned by each school council, except that the district is encouraged to provide technical assistance and leadership to school councils to maximize existing resources and to encourage shared planning.

(b) A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred eighty-five (185) days that a teacher shall be employed.

1. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.

2. No teacher or administrator shall be permitted to count participation in a professional development activity under the flexible schedule option unless the activity is related to the teacher's classroom assignment and content area, or the administrator's job requirements, or is required by the school improvement or consolidated plan, or is tied to the teacher's or the administrator's individual growth plan. The supervisor shall give prior approval and shall monitor compliance with the requirements of this paragraph. In the case of teachers, a professional development committee or the school council by council policy may be responsible for reviewing requests for approval.

(c) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.

(d) Each local board may use two (2) days for planning activities without the presence of pupils.

(e) Each local board may use the number of days deemed necessary for:

1. National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;

2. Local disaster which would endanger the health or safety of children; and

3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the commissioner of education.

(5) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt administrative regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (4)(e)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.

(6) (a) In setting the school calendar, school may be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings may be scheduled to begin with the first Thursday after Easter, or largest paid membership, the commissioner of education may designate alternate dates. If schools are scheduled to operate during days designated for the statewide professional meeting, the school district shall permit teachers who are delegates to attend as compensated professional leave time and shall employ substitute teachers in their absence. The

commissioner of education shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. School shall be closed on the day of a regular election, and that day may be used for professional development activities, professional meetings, or parent-teacher conferences.

(b) All schools shall be closed on the third Monday of January in observance of the birthday of Martin Luther King, Jr. Districts may:

1. Designate the day as one (1) of the four (4) holidays permitted under subsection (4)(c) of this section; or

2. Not include the day in the minimum school term specified in subsection (1) of this section.

(7) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(8) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the school day.

(9) Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section.

(10) Notwithstanding the provisions of KRS 158.060(3) and the provisions of subsection (1) of this section, a school district shall arrange bus schedules so that all buses arrive in sufficient time to provide breakfast prior to the instructional day. In the event of an unforeseen bus delay, the administrator of a school that participates in the Federal School Breakfast Program may authorize up to fifteen (15) minutes of the six (6) hour instructional day if necessary to provide the opportunity for children to eat breakfast not to exceed eight (8) times during the school year within a school building.

Section 7. KRS 158.6455 is amended to read as follows:

It is the intent of the General Assembly that schools succeed with all students and receive the appropriate consequences in proportion to that success.

(1) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish a system for identifying and rewarding successful schools. A reward shall be distributed to successful schools based on the number of full-time, part-time, and itinerant certified staff employed in the school on the last working day of the year of the reward to be used for school purposes as determined by the school council or, if none exists, the principal. The Kentucky Board of Education shall identify reports, paperwork requirements, and administrative regulations from which high performing schools shall be exempt.

(b) Effective July 1, 2006, the Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below five percent (5%).

(2) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate by administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A the formula for a school accountability index to classify schools every two (2) years based on whether they have met their threshold level for school improvement, with school years 1998-2000 serving as the baseline. The formula shall reflect the school goals described in KRS 158.6451, except there shall be no measurement of the goals included in subsection (1)(b)3. and (1)(b)4.

(3) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish appropriate consequences for schools failing to meet their threshold. The consequences shall be designed to improve teaching and learning and may include, but not be limited to:

(a) A scholastic audit process under subsection (4) of this section to determine the appropriateness of a school's classification and to recommend needed assistance;

(b) School improvement plans;

(c) Eligibility to receive Commonwealth school improvement funds under KRS 158.805;

(d) Education assistance from highly skilled certified staff under KRS 158.782;

(e) Evaluation of school personnel; and

(f) Student transfer to successful schools.

(4) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A establishing the guidelines for conducting scholastic audits, which shall include the process for:

1. Appointing and training team members. The team shall include at least a highly skilled certified educator under KRS 158.782, a teacher, a principal or other local district administrator, a parent, and a university faculty member;

2. Reviewing a school's learning environment, efficiency, and academic performance of students and the quality of the school council's data analysis and planning in accordance with ***paragraph (j) of subsection (2) of Section 9 of this Act***[~~KRS 160.345(2)(j)~~];

3. Evaluating each certified staff member assigned to the school. Only certified members of the audit team shall evaluate personnel; and

4. Making a recommendation to the Kentucky Board of Education about the appropriateness of a school's classification and a recommendation concerning the assistance required by the school to improve teaching and learning.

(b) For information purposes, the board shall also conduct scholastic audits in a sample of schools that achieved their goal and report to the public on the resulting findings regarding each aspect of the schools' operations required under subparagraph 2. of paragraph (a) of this subsection.

(5) ***The scholastic audit team shall consider the functioning of the school council in its review and make recommendations for improvement of the school council, if needed, and concerning the authority of the school council if required under Section 1 of this Act.***[~~(a) Notwithstanding subsections (2), (3), and (4) of this section and KRS 158.645 to 158.805, the Kentucky Board of Education, after receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation in conformity with the provisions of KRS 158.6471 and 158.6472 and in accordance with KRS Chapter 13A, establishing a formula for school accountability and a school improvement goal for each school for the 1998-1999 and 1999-2000 school years, with the 1996-97 and 1997-98 school years serving as the baseline. The formula shall be based on the academic and nonacademic components that are administered in a consistent manner during the four (4) year period.~~

~~(b) 1. The Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below eight percent (8%).~~

~~2. Schools failing to improve as identified by the board shall be reviewed by a scholastic audit team appointed by the state board under subsection (4) of this section. The audit shall not include a formal evaluation of each certified staff member. The team shall determine whether the school shall have highly skilled education assistance for advisory purposes. All schools failing to achieve their goal shall develop a school improvement plan and shall be eligible for school improvement funds under KRS 158.805.~~]

(6) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education may promulgate by administrative regulation, in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, a system of district accountability that includes establishing a formula for accountability, goals for improvement over a two (2) year period, rewards for leadership in improving teaching and learning in the district, and consequences that address the problems and provide assistance when the district fails to achieve its goals set by the board.

(7) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, to establish a process whereby a school shall be allowed to appeal a performance judgment which it considers grossly unfair. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. The state board may adjust a performance judgment on appeal when evidence of highly unusual circumstances warrants the conclusion that the performance judgment is based on fraud or a mistake in computations, is arbitrary, is lacking any reasonable basis, or when there are significant new circumstances occurring during the biennial assessment period which are beyond the control of the school.

Section 8. KRS 158.782 is amended to read as follows:

(1) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky

Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, to set forth the guidelines for providing highly skilled education assistance to schools and school districts. The program shall be designed to support improved teaching and learning and may include, but not be limited to, establishing the following:

(a) Criteria for identifying successful strategies of assistance;

(b) Policies and procedures for providing education assistance, which may include training, making assignments, employing certified personnel, and setting salaries that may include supplements; and

(c) Duties of those providing education assistance, which may include personnel evaluation and recommendations concerning retention, dismissal, or transfer of personnel.

(2) ***The Department of Education shall provide appropriate training for the highly skilled educators that shall include, but not be limited to, training to strengthen the school-based decision making process.***

(3) A district employee selected to provide assistance shall be granted professional leave pursuant to KRS 161.770 though the time may exceed two (2) years if determined by the state board to be necessary. A certified employee shall not lose any employee benefits as a result of a special assignment.

(4)[~~(3)~~] The Kentucky Board of Education shall annually review the paperwork required of schools receiving highly skilled certified education assistance. It shall assure that paperwork requirements are kept to a minimum, relevant to the needs of the school, and are directly related to improving teaching and learning.

Section 9. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school ***or has had its rights, duties, and authority transferred to the district superintendent or a highly skilled educator under Section 1 of this Act***. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;
2. Instructional programs operated in institutions or schools outside of the district; or
3. Alternative schools designed to provide services to at-risk populations with unique needs;

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers; and

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or
2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal or head teacher shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;

(h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with subsection (2)(i)10. of this section. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. When a vacancy in the school principalship occurs, the school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request when qualified applicants are available;

(i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;
2. Assignment of all instructional and noninstructional staff time;
3. Assignment of students to classes and programs within the school;
4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
5. Determination of use of school space during the school day;
6. Planning and resolution of issues regarding instructional practices;
7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;

9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and

10. Procedures to assist the council with consultation in the selection of personnel by the principal, including, but not limited to, meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; and

(j) Each school council shall annually review data on its students' performance as shown by the Commonwealth Accountability Testing System. The data shall include, but not be limited to, information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council shall adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b). The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than December 31 of each year. If a school does not have a council, the review shall be completed by the principal.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;

(d) Professional development plans developed pursuant to KRS 156.095;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to ***Section 7 of this Act***[~~KRS 158.6455~~] may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education, and school council members shall complete the required training no later than thirty (30) days after the beginning of the service year for which they are elected to serve. By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education,

which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements specified in KRS 156.095. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

The Committee Substitute to **SB 132** is as follows:

SB 132, AN ACT relating to increasing student achievement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) A school subject to a scholastic audit for not meeting its accountability goal under KRS 158.6453 that has a school council identified as failing to promote student academic achievement shall include in its school improvement plan actions to strengthen the school council and the school-based decision making process at the school. The local school district also shall include in its assistance plan for the school actions to strengthen the functioning of the school council and the school-based decision making process at the school.

(2) (a) A scholastic audit team, established under Section 6 of this Act, auditing a school that for two (2) successive accountability cycles failed to meet its goal and has declining student performance, shall consider the functioning of the school council and make recommendations concerning the council in the improvement plan. The team shall recommend to the commissioner of education whether the school council shall retain the authority granted to it under Section 8 of this Act. If the recommendation is to transfer the authority of the school council, the team shall also recommend whether:

1. The authority shall be transferred to the superintendent or a highly skilled educator; and

2. The school council shall continue to act in an advisory capacity until all authority has been restored under subsection (5) of this section.

(b) A scholastic audit team, established under Section 6 of this Act, auditing a district of a school subject to subsection (2)(a) of this section, shall consider the functioning of the school district and make recommendations concerning the school's council in the district's assistance plan. If the recommendation is to transfer the authority of the school council, the team shall also recommend whether:

1. The authority shall be transferred to the superintendent or a highly skilled educator; and

2. The school council shall continue to act in an advisory capacity until all authority has been restored under subsection (5) of this section.

(3) (a) If the school and district audit teams recommend transfer of the council's authority to the superintendent, the commissioner of education shall transfer the council's authority under Section 8 of this Act to the superintendent. The commissioner shall determine whether the school council shall continue in an advisory capacity and shall notify the local board of education, the district superintendent, the principal of the school, and the school council of the action.

(b) 1. Within thirty (30) days of the commissioner's action, the school council may request that the Kentucky

Board of Education consider the matter by submitting a written request including any supporting information. The Kentucky Board of Education shall consider the audit reports, the commissioner's decision, and the request for consideration and make a final determination.

2. If both the audit teams recommend transfer of the council's authority to a highly skilled educator or if they recommend transfer of the council's authority but are not in agreement as to the party granted the council's authority, the commissioner shall make a recommendation to the Kentucky Board of Education, which shall make the final determination. The school council and the superintendent may submit supporting information. The commissioner shall recommend whether the school council shall continue in an advisory capacity and shall notify the local board of education, the district superintendent, the principal of the school, and the school council members of the recommendation and the Kentucky Board of Education's final action.

(4) Subject to the policies adopted for the district by the local board of education, the local district superintendent or the highly skilled educator shall assume all powers, duties, and authority granted to a school council under Section 8 of this Act thirty (30) days following the commissioner's recommendation if no request for consideration by the Kentucky Board of Education is requested or following the determination of the Kentucky Board of Education, whichever is appropriate.

(5) Within thirty (30) days after assuming the powers, duties, and authority listed in subsection (4) of this section, the superintendent or highly skilled educator shall consult with the council and with stakeholders at the school and prepare a plan for developing capacity for sound school-based decision making at the school. The commissioner of education shall review the plan and approve it as adequate or identify specific areas for improvement. The superintendent or highly skilled educator shall report to the commissioner every six (6) months on the implementation and results of the approved plan.

(6) The school's right to establish a council or the school's right for the council to assume the full authority granted under Section 8 of this Act shall be restored when the school meets its accountability goal for an accountability cycle as determined by the Kentucky Department of Education under Section 6 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Department of Education shall administer a program to provide assistance to schools that have a significant gap in academic performance among the various groups of students as shown by the Commonwealth Accountability Testing System including nonminority and minority students as defined in Section 8 of this Act. The assistance shall include part-time technical assistance provided by a teacher or administrator who is retired and has demonstrated the ability to facilitate high academic achievement for diverse learners, including minority students. The technical assistance shall include, but not be limited to:

(a) A review of the school's scholastic audit or scholastic review, if applicable;

(b) A review of the school council's plan to address individual student needs required under subsection (2)(j) of Section 8 of this Act, if applicable.

(c) An equity audit including a review of the placements for minority students, including the identification of students with disabilities, disciplinary actions, course-taking patterns, and the selection for gifted and talented programs, advanced placement courses, and honors programs; and

(d) Instructional strategies.

(2) The school council, or the principal if a school council does not exist, shall submit an application for technical assistance through the local superintendent. The application shall include:

(a) The subject areas in which a gap in performance exists;

(b) The number of students adversely impacted by the gap in achievement; and

(c) The need for technical assistance.

(3) To the extent possible. the Department of Education shall use the following school selection criteria:

(a) The greatest gap in academic achievement;

(b) The total number of students impacted; and

(c) Geographical distribution.

Section 3. KRS 157.320 is amended to read as follows:

As used in KRS 157.310 to 157.440, unless the context otherwise requires:

(1) "Average daily attendance" means the aggregate days attended by pupils in a public school, adjusted for weather-related low attendance days if applicable, divided by the actual number of days the school is in session, after the five (5) days with the lowest attendance have been deducted.

(a) Aggregate days shall include, in addition to the aggregate number of days attended by a pupil who was suspended during a school year, the number of days the pupil was suspended, not to exceed ten (10) days in total for the school year; and

(b) Aggregate days shall include, in addition to the aggregate number of days attended by a pupil who was expelled for behavioral problems, the number of days the pupil was expelled up to a total of ***the minimum annual instructional days or the equivalent as provided in Section 5 of this Act***[~~one hundred seventy five (175) days~~]. This total may extend into the next school year and shall be counted in the average daily attendance for the next year;

(2) "Base funding level" means a guaranteed amount of revenue per pupil to be provided for each school district, to be used for regular operating and capital expenditures;

(3) "Board" means the board of education of any county or independent school district;

(4) "District" means any school district as defined by law;

(5) "Elementary school" means a school consisting of the primary school program through grade eight (8) as defined in KRS 158.030, or any appropriate combination of grades within this range, as determined by the plan of organization for schools authorized by the district board;

(6) "Support Education Excellence in Kentucky" means the level of educational services and facilities which is to be provided in each district from the public school fund;

(7) "Kindergarten full-time equivalent pupil in average daily attendance" means each kindergarten pupil counted no more than one-half (1/2) day in the aggregate days attended by kindergarten pupils in a public school divided by the actual number of days school is in session after the five (5) days with the lowest attendance have been deducted. Kindergarten is the entry level of the primary program and shall be provided no less than the equivalent of one-half (1/2) day, five (5) days a week for a full school year for each kindergarten pupil;

(8) "Public school fund" means the fund created by KRS 157.330 for use in financing education in public elementary and secondary schools;

(9) "Administrative regulations of the Kentucky Board of Education" means those regulations which the Kentucky Board of Education may adopt upon the recommendation and with the advice of the commissioner of education. The commissioner of education shall recommend administrative regulations necessary for carrying out the purposes of KRS 157.310 to 157.440;

(10) "Experience" means employment as a teacher, other than as a substitute or nursery school teacher, for a minimum of one hundred forty (140) days during a school year in a public or nonpublic elementary or secondary school or college or university that is approved by the public accrediting authority in the state in which the teaching duties were performed. A teacher who is employed by a board for at least one hundred forty (140) days of a school year and who performs teaching duties for the equivalent of at least seventy (70) full school days during that school year, regardless of the schedule on which those duties were performed, shall be credited with one (1) year of experience. A teacher who is employed by a board for at least one hundred forty (140) days during each of two (2) school years and who performs teaching duties for the equivalent of at least seventy (70) full school days during those years shall be credited with one (1) year of experience. No more than one (1) year of experience shall be credited for the performance of teaching duties during a single school year;

(11) "Secondary school" means a school consisting of grades seven (7) through twelve (12), or any appropriate combination of grades within this range as determined by the plan of organization for schools authorized by the district board. When grades seven (7) through nine (9) or ten (10) are organized separately as a junior high school, or grades ten (10) through twelve (12) are organized separately as a senior high school and are conducted in separate school plant facilities, each shall be considered a separate secondary school for the purposes of KRS 157.310 to 157.440;

(12) "Single salary schedule" means a schedule adopted by a local board from which all teachers are paid for ***the minimum school term as provided in Section 5 of this Act***[~~one hundred eighty-five (185) days~~] and is based on training, experience, and such other factors as the Kentucky Board of Education may approve and which does not discriminate between salaries paid elementary and secondary teachers. If the budget bill contains a minimum statewide salary schedule, no teacher shall be paid less than the amount specified in the biennial budget salary schedule for the individual teacher's educational qualifications and experience;

(13) ***"Student with limited English proficiency" means a student who:***

(a) Was not born in the United States or whose native language is a language other than English and comes from an environment where a language other than English is dominant; or

(b) Is a Native American or Alaska Native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on that individual's level of English language proficiency; or

(c) Is migratory and whose native language is other than English and comes from an environment where a language other than English is dominant; and

(d) Who has sufficient difficulty speaking, reading, writing, or understanding the English language and whose difficulties may deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

(14) "Teacher" means any regular or special teacher, principal, supervisor, superintendent, assistant superintendent, librarian, director of pupil personnel, or other member of the teaching or professional staff engaged in the service of the public elementary and secondary school for whom certification is required as a condition of employment;

(15)[~~(14)~~] "Percentage of attendance" means the aggregate days attended by pupils in a public school for the school year divided by the aggregate days' membership of pupils in a public school for the school year;

(16)[~~(15)~~] "Middle school" means a school consisting of grades five (5) through eight (8) or any appropriate combination of grades as determined by the plan of organization for schools authorized by the district board;

(17)[~~(16)~~] "National board certification salary supplement" means an annual supplement added for the life of the certificate to the base salary of a teacher who attains national board certification; and

(18)[~~(17)~~] "Weather-related low attendance day" means a school day on which the district's attendance falls below the average daily attendance for the prior year due to inclement weather. The district shall submit a request to substitute the prior year's average daily attendance for its attendance on up to ten (10) designated days, along with documentation that the low attendance was due to inclement weather, for approval by the commissioner of education in accordance with Kentucky Board of Education administrative regulations.

Section 4. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the program to support education excellence in Kentucky, the statewide guaranteed base funding level, as defined in ***Section 3 of this Act***[~~KRS 157.320~~], shall be computed by dividing the amount appropriated for this purpose by the prior year's statewide average daily attendance.

(2) Each district shall receive an amount equal to the base funding level for each pupil in average daily attendance in the district in the previous year. Each district's base funding level shall be adjusted by the following factors:

(a) The number of at-risk students in the district. At-risk students shall be identified as those approved for the free lunch program under state and federal guidelines. The number of at-risk students shall be multiplied by a factor to be established by the General Assembly. Funds generated under this paragraph may be used to pay for:

1. Alternative programs for students who are at risk of dropping out of school before achieving a diploma; and

2. A hazardous duty pay supplement as determined by the local board of education to the teachers who work in alternative programs with students who are violent or assaultive;

(b) The number and types of exceptional children in the district as defined by KRS 157.200. Specific weights for each category of exceptionality shall be used in the calculation of the add-on factor for exceptional children;[~~ and~~]

(c) ***The number of students with limited English proficiency as defined by the Kentucky Board of Education shall be multiplied by a factor to be established by the General Assembly; and***

(d) Transportation costs. The per-pupil cost of transportation shall be calculated as provided by KRS 157.370. Districts which contract to furnish transportation to students attending nonpublic schools may adopt any payment formula which assures that no public school funds are used for the transportation of nonpublic students.

(3) The program to support education excellence in Kentucky shall be fully implemented by the 1994-95 school year.

(4) (a) Except for those schools which have implemented school-based decision making, the chief state school officer shall enforce maximum class sizes for every academic course requirement in all grades except in vocal and instrumental music, and physical education classes. Except as provided in subsection (5) of this section, the maximum number of pupils enrolled in a class shall be as follows:

1. Twenty-four (24) in primary grades (kindergarten through third grade);

2. Twenty-eight (28) in grade four (4);

3. Twenty-nine (29) in grades five (5) and six (6);

4. Thirty-one (31) in grades seven (7) to twelve (12);

(b) Except for those schools which have implemented school-based decision making, class size loads for middle and secondary school classroom teachers shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.

(c) The chief state school officer, upon approval of the Kentucky Board of Education, shall adopt administrative regulations for enforcing this provision. These administrative regulations shall include procedures for a superintendent to request an exemption from the Kentucky Board of Education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in the primary grades and grades four (4) through eight (8).

(d) In all schools the chief state school officer shall enforce the special education maximum class sizes set by administrative regulations adopted by the Kentucky Board of Education. A superintendent may request an exemption pursuant to paragraph (c) of this subsection. A local school council may request a waiver pursuant to KRS 156.160(2). An exemption or waiver shall not be granted if the increased class size will impede any exceptional child from achieving his individual education program in the least restrictive environment.

(5) In grades four (4) through six (6) with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes. In combined classes other than the primary grades, no ungraded students shall be placed in a combined class with graded students. In addition, there shall be no more than two (2) consecutive grade levels combined in any one (1) class in grades four (4) through six (6). However, this shall not apply to schools which have implemented school-based decision making.

(6) If a local school district, through its admission and release committee, determines that an appropriate program in the least restrictive environment for a particular child with a disability includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, the school district shall count as average daily attendance in a public school the time that the child is in attendance at the school or agency, contingent upon approval by the chief state school officer.

(7) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers who are actually employees of the joint or cooperative action shall be considered as employees of each school district which is a party to the agreement.

(8) Program funding shall be increased when the average daily attendance in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district for the first two (2) months of the previous school year. The program funds allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.

(9) If the average daily attendance for the current school year in any district decreases by ten percent (10%) or more than the average daily attendance for the previous school year, the average daily attendance for purposes of calculating program funding for the next school year shall be increased by an amount equal to two-thirds (2/3) of the decrease in average daily attendance. If the average daily attendance remains the same or decreases in the succeeding school year, the average daily attendance for purposes of calculating program funding for the following school year shall be increased by an amount equal to one-third (1/3) of the decrease for the first year of the decline.

(10) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the program funding allotted the district for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(11) (a) Instructional salaries for vocational agriculture classes shall be for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the Division of Secondary Vocational Education in the Department of Education. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.

(b) Each teacher of agriculture employed shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the State Department of Education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the chief state school officer a completed report of summer tasks for each vocational agriculture teacher. Twenty percent (20%) of the approved vocational agriculture programs shall be audited annually by the State Department of Education to determine that the summer plan has been properly executed.

(12) (a) In allotting program funds for home and hospital instruction, statewide guaranteed base funding, excluding the capital outlay, shall be allotted for each child in average daily attendance in the prior school year who has been properly identified according to Kentucky Board of Education administrative regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education; and

(b) Pursuant to administrative regulations of the Kentucky Board of Education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by administrative regulations to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, and a reasonable allotment for travel expenses to and from instructional assignments, but the formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported annually on forms provided by the Department of Education.

(13) Except for those schools which have implemented school-based decision making and the school council has voted to waive this subsection, kindergarten aides shall be provided for each twenty-four (24) full-time equivalent kindergarten students enrolled.

(14) Effective July 1, 2001, there shall be no deduction applied against the base funding level for any pupil in average daily attendance who spends a portion of his or her school day in a program at a state-operated career and technical education or vocational facility.

Section 5. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour instructional days. A board of education may extend its term beyond the minimum term. ***If the General Assembly provides funding for additional instructional days, a local board of education may choose to use the funding it would receive for additional instructional days over one hundred seventy-five (175) days to provide a longer school calendar in a low-performing school as designated by the Department of Education. The Department of Education shall establish the necessary calculations to assure that districts are reimbursed the same amount of funds under Section 4 of this Act that they would receive if all schools were in session. This provision shall not apply if the General Assembly provides more than one hundred eighty (180) instructional days.***

(2) The local board of education, upon recommendation of the local school district superintendent, shall adopt a school calendar for the upcoming school year that establishes the opening and closing dates of the school term, beginning and ending dates of each school month, instructional days, and days on which schools shall be dismissed. The local board may schedule days for breaks in the school calendar that shall not be counted as a part of the minimum school term.

(3) Any local board of education operating its schools on a year-round school program basis shall conform with administrative regulations promulgated and adopted by the Kentucky Board of Education upon the recommendation of the commissioner of education, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum instructional term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(4) (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of pupils pursuant to the requirements of KRS 156.095. At the discretion of the superintendent, one (1) day of professional development may be used for district-wide activities and for training that is mandated by federal or state law. The use of three (3) days shall be planned by each school council, except that the district is encouraged to provide technical assistance and leadership to school councils to maximize existing resources and to encourage shared planning.

(b) A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred eighty-five (185) days that a teacher shall be employed.

1. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.

2. No teacher or administrator shall be permitted to count participation in a professional development activity under the flexible schedule option unless the activity is related to the teacher's classroom assignment and content area, or the administrator's job requirements, or is required by the school improvement or consolidated plan, or is tied to the teacher's or the administrator's individual growth plan. The supervisor shall give prior approval and shall monitor compliance with the requirements of this paragraph. In the case of teachers, a professional development committee or the school council by council policy may be responsible for reviewing requests for approval.

(c) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.

(d) Each local board may use two (2) days for planning activities without the presence of pupils.

(e) Each local board may use the number of days deemed necessary for:

1. National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;

2. Local disaster which would endanger the health or safety of children; and

3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the commissioner of education.

(5) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt administrative regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (4)(e)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.

(6) (a) In setting the school calendar, school may be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings may be scheduled to begin with the first Thursday after Easter, or largest paid membership, the commissioner of education may designate alternate dates. If schools are scheduled to operate during days designated for the statewide professional meeting, the school district shall permit teachers who are delegates to attend as compensated professional leave time and shall employ substitute teachers in their absence. The commissioner of education shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. School shall be closed on the day of a regular election, and that day may be used for professional development activities, professional meetings, or parent-teacher conferences.

(b) All schools shall be closed on the third Monday of January in observance of the birthday of Martin Luther King, Jr. Districts may:

1. Designate the day as one (1) of the four (4) holidays permitted under subsection (4)(c) of this section; or

2. Not include the day in the minimum school term specified in subsection (1) of this section.

(7) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(8) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the school day.

(9) Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section.

(10) Notwithstanding the provisions of KRS 158.060(3) and the provisions of subsection (1) of this section, a school district shall arrange bus schedules so that all buses arrive in sufficient time to provide breakfast prior to the instructional day. In the event of an unforeseen bus delay, the administrator of a school that participates in the Federal School Breakfast Program may authorize up to fifteen (15) minutes of the six (6) hour instructional day if necessary to provide the opportunity for children to eat breakfast not to exceed eight (8) times during the school year within a school building.

Section 6. KRS 158.6455 is amended to read as follows:

It is the intent of the General Assembly that schools succeed with all students and receive the appropriate consequences in proportion to that success.

(1) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish a system for identifying and rewarding successful schools. A reward shall be distributed to successful schools based on the number of full-time, part-time, and itinerant certified staff employed in the school on the last working day of the year of the reward to be used for school purposes as determined by the school council or, if none exists, the principal. The Kentucky Board of Education shall identify reports, paperwork requirements, and administrative regulations from which high performing schools shall be exempt.

(b) Effective July 1, 2006, the Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below five percent (5%).

(2) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate by administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A the formula for a school accountability index to classify schools every two (2) years based on whether

they have met their threshold level for school improvement, with school years 1998-2000 serving as the baseline. The formula shall reflect the school goals described in KRS 158.6451, except there shall be no measurement of the goals included in subsection (1)(b)3. and (1)(b)4.

(3) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish appropriate consequences for schools failing to meet their threshold. The consequences shall be designed to improve teaching and learning and may include, but not be limited to:

(a) A scholastic audit process under subsection (4) of this section to determine the appropriateness of a school's classification and to recommend needed assistance;

(b) School improvement plans;

(c) Eligibility to receive Commonwealth school improvement funds under KRS 158.805;

(d) Education assistance from highly skilled certified staff under KRS 158.782;

(e) Evaluation of school personnel; and

(f) Student transfer to successful schools.

(4) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A establishing the guidelines for conducting scholastic audits, which shall include the process for:

1. Appointing and training team members. The team shall include at least a highly skilled certified educator under KRS 158.782, a teacher, a principal or other local district administrator, a parent, and a university faculty member;

2. Reviewing a school's learning environment, efficiency, and academic performance of students and the quality of the school council's data analysis and planning in accordance with ***paragraph (j) of subsection (2) of Section 8 of this Act***[~~KRS 160.345(2)(j)~~];

3. Evaluating each certified staff member assigned to the school. Only certified members of the audit team shall evaluate personnel; and

4. Making a recommendation to the Kentucky Board of Education about the appropriateness of a school's classification and a recommendation concerning the assistance required by the school to improve teaching and learning.

(b) For information purposes, the board shall also conduct scholastic audits in a sample of schools that achieved their goal and report to the public on the resulting findings regarding each aspect of the schools' operations required under subparagraph 2. of paragraph (a) of this subsection.

(5) ***The scholastic audit team shall consider the functioning of the school council in its review and make recommendations for improvement of the school council, if needed, and concerning the authority of the school council if required under Section 1 of this Act.***[~~(a) Notwithstanding subsections (2), (3), and (4) of this section and KRS 158.645 to 158.805, the Kentucky Board of Education, after receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation in conformity with the provisions of KRS 158.6471 and 158.6472 and in accordance with KRS Chapter 13A, establishing a formula for school accountability and a school improvement goal for each school for the 1998-1999 and 1999-2000 school years, with the 1996-97 and 1997-98 school years serving as the baseline. The formula shall be based on the academic and nonacademic components that are administered in a consistent manner during the four (4) year period.~~

~~(b) 1. The Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below eight percent (8%).~~

~~2. Schools failing to improve as identified by the board shall be reviewed by a scholastic audit team appointed by the state board under subsection (4) of this section. The audit shall not include a formal evaluation of each certified staff member. The team shall determine whether the school shall have highly skilled education assistance for advisory purposes. All schools failing to achieve their goal shall develop a school improvement plan and shall be eligible for school improvement funds under KRS 158.805.~~]

(6) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education may promulgate by administrative regulation, in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, a system of district accountability that includes establishing a formula for accountability, goals for improvement over a two (2) year period, ***provisions for district audit teams,*** rewards for leadership in improving teaching and learning in the district, and consequences that address the problems and provide assistance when the district fails to

achieve its goals set by the board.

(7) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, to establish a process whereby a school shall be allowed to appeal a performance judgment which it considers grossly unfair. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. The state board may adjust a performance judgment on appeal when evidence of highly unusual circumstances warrants the conclusion that the performance judgment is based on fraud or a mistake in computations, is arbitrary, is lacking any reasonable basis, or when there are significant new circumstances occurring during the biennial assessment period which are beyond the control of the school.

Section 7. KRS 158.782 is amended to read as follows:

(1) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, to set forth the guidelines for providing highly skilled education assistance to schools and school districts. The program shall be designed to support improved teaching and learning and may include, but not be limited to, establishing the following:

(a) Criteria for identifying successful strategies of assistance;

(b) Policies and procedures for providing education assistance, which may include training, making assignments, employing certified personnel, and setting salaries that may include supplements; and

(c) Duties of those providing education assistance, which may include personnel evaluation and recommendations concerning retention, dismissal, or transfer of personnel.

(2) ***The Department of Education shall provide appropriate training for the highly skilled educators that shall include, but not be limited to, training to strengthen the school-based decision making process.***

(3) A district employee selected to provide assistance shall be granted professional leave pursuant to KRS 161.770 though the time may exceed two (2) years if determined by the state board to be necessary. A certified employee shall not lose any employee benefits as a result of a special assignment.

(4)[~~(3)~~] The Kentucky Board of Education shall annually review the paperwork required of schools receiving highly skilled certified education assistance. It shall assure that paperwork requirements are kept to a minimum, relevant to the needs of the school, and are directly related to improving teaching and learning.

Section 8. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school ***or has had its rights, duties, and authority transferred to the district superintendent or a highly skilled educator under Section 1 of this Act***. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;
2. Instructional programs operated in institutions or schools outside of the district; or
3. Alternative schools designed to provide services to at-risk populations with unique needs;

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers; and

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or
2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal or head teacher shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;

(h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with subsection (2)(i)10. of this section. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. When a vacancy in the school principalship occurs, the school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request when qualified applicants are available;

(i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;
2. Assignment of all instructional and noninstructional staff time;
3. Assignment of students to classes and programs within the school;
4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
5. Determination of use of school space during the school day;
6. Planning and resolution of issues regarding instructional practices;
7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;
9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and
10. Procedures to assist the council with consultation in the selection of personnel by the principal, including, but not limited to, meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; and

(j) Each school council shall annually review data on its students' performance as shown by the Commonwealth Accountability Testing System. The data shall include, but not be limited to, information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council shall adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b). The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than December 31 of each year. If a school does not have a council, the review shall be completed by the principal.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;

(d) Professional development plans developed pursuant to KRS 156.095;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to ***Section 6 of this Act***~~[KRS 158.6455]~~ may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours

of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education, and school council members shall complete the required training no later than thirty (30) days after the beginning of the service year for which they are elected to serve. By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements specified in KRS 156.095. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

SB 147, AN ACT relating to the reorganization of the Department of Education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the program to support education excellence in Kentucky, the statewide guaranteed base funding level, as defined in KRS 157.320, shall be computed by dividing the amount appropriated for this purpose by the prior year's statewide average daily attendance.

(2) Each district shall receive an amount equal to the base funding level for each pupil in average daily attendance in the district in the previous year. Each district's base funding level shall be adjusted by the following factors:

(a) The number of at-risk students in the district. At-risk students shall be identified as those approved for the free lunch program under state and federal guidelines. The number of at-risk students shall be multiplied by a factor to be established by the General Assembly. Funds generated under this paragraph may be used to pay for:

1. Alternative programs for students who are at risk of dropping out of school before achieving a diploma; and

2. A hazardous duty pay supplement as determined by the local board of education to the teachers who work in alternative programs with students who are violent or assaultive;

(b) The number and types of exceptional children in the district as defined by KRS 157.200. Specific weights for each category of exceptionality shall be used in the calculation of the add-on factor for exceptional children; and

(c) Transportation costs. The per-pupil cost of transportation shall be calculated as provided by KRS 157.370. Districts which contract to furnish transportation to students attending nonpublic schools may adopt any payment formula which assures that no public school funds are used for the transportation of nonpublic students.

(3) The program to support education excellence in Kentucky shall be fully implemented by the 1994-95 school year.

(4) (a) Except for those schools which have implemented school-based decision making, the chief state school officer shall enforce maximum class sizes for every academic course requirement in all grades except in vocal and instrumental music, and physical education classes. Except as provided in subsection (5) of this section, the maximum number of pupils enrolled in a class shall be as follows:

1. Twenty-four (24) in primary grades (kindergarten through third grade);
2. Twenty-eight (28) in grade four (4);
3. Twenty-nine (29) in grades five (5) and six (6);
4. Thirty-one (31) in grades seven (7) to twelve (12);

(b) Except for those schools which have implemented school-based decision making, class size loads for middle and secondary school classroom teachers shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.

(c) The chief state school officer, upon approval of the Kentucky Board of Education, shall adopt administrative regulations for enforcing this provision. These administrative regulations shall include procedures for a superintendent to request an exemption from the Kentucky Board of Education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in the primary grades and grades four (4) through eight (8).

(d) In all schools the chief state school officer shall enforce the special education maximum class sizes set by administrative regulations adopted by the Kentucky Board of Education. A superintendent may request an exemption pursuant to paragraph (c) of this subsection. A local school council may request a waiver pursuant to KRS 156.160(2). An exemption or waiver shall not be granted if the increased class size will impede any exceptional child from achieving his individual education program in the least restrictive environment.

(5) In grades four (4) through six (6) with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes. In combined classes other than the primary grades, no ungraded students shall be placed in a combined class with graded students. In addition, there shall be no more than two (2) consecutive grade levels combined in any one (1) class in grades four (4) through six (6). However, this shall not apply to schools which have implemented school-based decision making.

(6) If a local school district, through its admission and release committee, determines that an appropriate program in the least restrictive environment for a particular child with a disability includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, the school district shall count as average daily attendance in a public school the time that the child is in attendance at the school or agency, contingent upon approval by the chief state school officer.

(7) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers who are actually employees of the joint or cooperative action shall be considered as employees of each school district which is a party to the agreement.

(8) Program funding shall be increased when the average daily attendance in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district for the first two (2) months of the previous school year. The program funds allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.

(9) If the average daily attendance for the current school year in any district decreases by ten percent (10%) or more than the average daily attendance for the previous school year, the average daily attendance for purposes of calculating program funding for the next school year shall be increased by an amount equal to two-thirds (2/3) of the decrease in average daily attendance. If the average daily attendance remains the same or decreases in the succeeding school year, the average daily attendance for purposes of calculating program funding for the following school year shall be increased by an amount equal to one-third (1/3) of the decrease for the first year of the decline.

(10) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the program funding allotted the district for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(11) (a) Instructional salaries for vocational agriculture classes shall be for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of

student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the Division of ***Career and Technical***~~[Secondary Vocational]~~ Education in the Department of Education. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.

(b) Each teacher of agriculture employed shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the State Department of Education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the chief state school officer a completed report of summer tasks for each vocational agriculture teacher. Twenty percent (20%) of the approved vocational agriculture programs shall be audited annually by the State Department of Education to determine that the summer plan has been properly executed.

(12) (a) In allotting program funds for home and hospital instruction, statewide guaranteed base funding, excluding the capital outlay, shall be allotted for each child in average daily attendance in the prior school year who has been properly identified according to Kentucky Board of Education administrative regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education; and

(b) Pursuant to administrative regulations of the Kentucky Board of Education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by administrative regulations to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, and a reasonable allotment for travel expenses to and from instructional assignments, but the formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported annually on forms provided by the Department of Education.

(13) Except for those schools which have implemented school-based decision making and the school council has voted to waive this subsection, kindergarten aides shall be provided for each twenty-four (24) full-time equivalent kindergarten students enrolled.

(14) Effective July 1, 2001, there shall be no deduction applied against the base funding level for any pupil in average daily attendance who spends a portion of his or her school day in a program at a state-operated career and technical education or vocational facility.

Section 2. The General Assembly hereby confirms Executive Order 2001-795, dated June 25, 2001, to the extent it is not otherwise confirmed by this Act, that reorganizes the Department of Education to include the Office of the Commissioner; the Bureau of Management Support Services which is renamed the Bureau of Operations and Support Services, including the Office of Budget and Financial Management which is renamed the Office of Internal Administration and Support, consisting of a Division of Budgets, Division of Financial and Materials Management, a Division of Administrative Services which is transferred from the Office of Human Resources and Equity, the Division of Human Resources which is transferred from the Office of Human Resources and Equity; the Office of Legal Services which is renamed the Office of Legal and Legislative Services, including the Division of Management Assistance Programs which is transferred from the Office of District Support Services; an Office of Communications, consisting of the Division of Public Information which is renamed the Division of Publications and Web Services, the Division of Media Services which is renamed the Division of Video and Multi-Media Services, and abolishes the Division of Community Relations; an Office of Results Planning, including the Division of Virtual Learning and the Division of Data Policy Management and Research; the Bureau of Learning Support Services which is renamed the Bureau of Learning and Results Services, including the Office of Special Instructional Services, consisting of the Division of Exceptional Children Services, the Division of Secondary Vocational Education which is renamed the Division of Career and Technical Education, the Division of Program Services which is renamed the Division of Federal Programs Services, the Division of the Kentucky School for the Blind, and the Division of the Kentucky School for the Deaf; an Office of Leadership and School Improvement, consisting of the Division of Instructional Leadership Development which is renamed the Division of Leadership Development and the Division of School Improvement; the Office of Supportive Learning Environments, consisting of the Division of Minority Educator Recruitment and Retention which is renamed the Division of Educator Recruitment and Retention; the Division of Equity which is transferred from the Office of Human Resources and Equity, the Division of Student, Family and Community Support which is transferred from the Office of District Support Services; the Office of Assessment and Accountability consisting of the Division of Assessment Implementation and the Division of Validation and Research; the Office of Academic and Professional Development consisting of the Division of Region One Service Center, the Division of Region Two Service Center, the Division of Region Four Service Center, the Division of Region Five Service Center, the Division of Region Six Service Center, the Division of Region Seven Service Center, the Division of Region Eight Service Center, the Division of Curriculum Development, and the Division of Extended Learning Services which is transferred from the Office of Supportive Learning Environments; the Office of District Support Services which is transferred from the Bureau of Management Support Services consisting of the Division of School Finance, the Division of Facilities Management, the Division of Pupil Transportation, and the Division of School and Community Nutrition; the Office of Education Technology which is transferred from the Bureau of Management Support Services, consisting of the Division of Planning Services which is renamed the Division of School Information Technology, the Division of System Support Services which is renamed the Division of School Network Services, the Division of Customer Support Services which is renamed the Division of School Instructional Technology; abolishes the Division of Integration Services; transfers relevant duties, functions, responsibilities, records, equipment, facilities and support budgets of the department to the appropriate organizational units.

The Committee on Tourism Development and Energy reported **HB 75, HB 105, HB 737,** with Committee Substitute attached thereto, and **SB 176** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 75, AN ACT relating to statutory definitions regarding utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.010 is amended to read as follows:

As used in KRS 278.010 to 278.450, and in KRS 278.990, unless the context otherwise requires:

(1) "Corporation" includes private, quasipublic, and public corporations, and all boards, agencies, and instrumentalities thereof, associations, joint-stock companies, and business trusts;

(2) "Person" includes natural persons, partnerships, corporations, and two (2) or more persons having a joint or common interest;

(3) "Utility" means any person except ***any sewage service provided by a fiscal court by ordinance under the authority of KRS Chapter 67 and***, for purposes of paragraphs (a), (b), (c), (d), and (f) of this subsection, a city, who owns, controls, operates, or manages any facility used or to be used for or in connection with:

- (a) The generation, production, transmission, or distribution of electricity to or for the public, for compensation, for lights, heat, power, or other uses;
- (b) The production, manufacture, storage, distribution, sale, or furnishing of natural or manufactured gas, or a mixture of same, to or for the public, for compensation, for light, heat, power, or other uses;
- (c) The transporting or conveying of gas, crude oil, or other fluid substance by pipeline to or for the public, for compensation;
- (d) The diverting, developing, pumping, impounding, distributing, or furnishing of water to or for the public, for compensation;
- (e) The transmission or conveyance over wire, in air, or otherwise, of any message by telephone or telegraph for the public, for compensation; or
- (f) The collection, transmission, or treatment of sewage for the public, for compensation, if the facility is a subdivision collection, transmission, or treatment facility plant that is affixed to real property and is located in a county containing a city of the first class or is a sewage collection, transmission, or treatment facility that is affixed to real property, that is located in any other county, and that is not subject to regulation by a metropolitan sewer district or any sanitation district created pursuant to KRS Chapter 220;

(4) "Retail electric supplier" means any person, firm, corporation, association, or cooperative corporation, excluding municipal corporations, engaged in the furnishing of retail electric service;

(5) "Certified territory" shall mean the areas as certified by and pursuant to KRS 278.017;

(6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is being or has been substantially used to supply retail electric service and includes all lines from the distribution substation to the electric consuming facility but does not include any transmission facilities used primarily to transfer energy in bulk;

(7) "Retail electric service" means electric service furnished to a consumer for ultimate consumption, but does not include wholesale electric energy furnished by an electric supplier to another electric supplier for resale;

(8) "Electric-consuming facilities" means everything that utilizes electric energy from a central station source;

(9) "Generation and transmission cooperative," or "G&T," means a utility formed under KRS Chapter 279 that provides electric generation and transmission services;

(10) "Distribution cooperative" means a utility formed under KRS Chapter 279 that provides retail electric service;

(11) "Facility" includes all property, means, and instrumentalities owned, operated, leased, licensed, used, furnished, or supplied for, by, or in connection with the business of any utility;

(12) "Rate" means any individual or joint fare, toll, charge, rental, or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement, or privilege in any way relating to such fare, toll, charge, rental, or other compensation, and any schedule or tariff or part of a schedule or tariff thereof;

(13) "Service" includes any practice or requirement in any way relating to the service of any utility, including the voltage of electricity, the heat units and pressure of gas, the purity, pressure, and quantity of water, and in general the quality, quantity, and pressure of any commodity or product used or to be used for or in connection with the business of any utility;

(14) "Adequate service" means having sufficient capacity to meet the maximum estimated requirements of the customer to be served during the year following the commencement of permanent service and to meet the maximum estimated requirements of other actual customers to be supplied from the same lines or facilities during such year and to assure such customers of reasonable continuity of service;

(15) "Commission" means the Public Service Commission of Kentucky;

(16) "Commissioner" means one (1) of the members of the commission;

(17) "Demand-side management" means any conservation, load management, or other utility activity intended to influence the level or pattern of customer usage or demand, including home energy assistance programs;

(18) "Affiliate" means a person that controls or that is controlled by, or is under common control with, a utility;

(19) "Control" means the power to direct the management or policies of a person through ownership, by contract, or otherwise;

(20) "CAM" means a cost allocation manual which is an indexed compilation and documentation of a company's cost allocation policies and related procedures;

(21) "Nonregulated activity" means the provision of competitive retail gas or electric services or other products or services over which the commission exerts no regulatory authority;

(22) "Nonregulated" means that which is not subject to regulation by the commission;

(23) "Regulated activity" means a service provided by a utility, the rates and charges of which are regulated by the commission;

(24) "USoA" means uniform system of accounts which is a system of accounts for public utilities established by the FERC and adopted by the commission;

(25) "Arm's length" means the standard of conduct under which unrelated parties, each party acting in its own best interest, would negotiate and carry out a particular transaction;

(26) "Subsidize" means the recovery of costs or the transfer of value from one (1) class of customer, activity, or business unit that is attributable to another;

(27) "Solicit" means to engage in or offer for sale a good or service, either directly or indirectly and irrespective of place or audience;

(28) "USDA" means the United States Department of Agriculture;

(29) "FERC" means the Federal Energy Regulatory Commission; and

(30) "SEC" means the Securities and Exchange Commission.

HB 105, AN ACT relating to camping fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 148.0211 is amended to read as follows:

(1) ***(a)*** Any veteran who has been a prisoner of war, was honorably discharged from the military forces, and is a resident of this state is exempt from camping fees in parks or campgrounds owned or operated by the Commonwealth of Kentucky.

(b)[~~(2)~~] To claim the exemption provided for by ***this*** subsection[~~ (1) of this section~~], a veteran shall forward:

1. ***a.***[~~(a)~~] A copy of his ***or her*** separation form from military service; or

b.[~~(b)~~] A letter from one (1) of the military forces or the Veterans Administration; and

2.[~~(c)~~] Written proof of residence***;***

to the Department of Parks.

(c) The department shall mail a card to the veteran certifying that he ***or she*** is exempt from the fees specified in ***this*** subsection[~~ (1) of this section~~].

(2) (a) Any person who is permanently disabled and is a resident of this state is exempt from camping fees in parks or campgrounds owned or operated by the Commonwealth of Kentucky.

(b) To claim the exemption provided for by this subsection, a person with permanent disability shall forward:

1. a. Proof of being declared permanently and totally disabled by the Federal Social Security Administration, the Department of Workers' Claims, or its equivalent from another state, or the United States Railroad Retirement Board;

b. Proof of being an American veteran at least fifty percent (50%) disabled as a result of a service-connected disability; or

c. Proof of being classified as permanently and totally disabled under a program authorized or administered by an agency of the United States government or by any retirement system either within or without the Commonwealth of Kentucky; and

2. Written proof of residence;

to the Department of Parks.

(c) The department shall mail a card to the disabled person certifying that he or she is exempt from the fees specified in this subsection.

HB 737, AN ACT relating to the establishment of a Lewis and Clark Bicentennial Commission.

WHEREAS, the Lewis and Clark expedition officially began its voyage down the Ohio River near Louisville toward St. Louis, Missouri, on October 26, 1803, and the Falls of the Ohio River has been recognized by the National Park Service as an official part of the Lewis and Clark expedition trail.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. (1)The Lewis and Clark Bicentennial Commission is hereby established and attached to the Tourism Development Cabinet for administrative purposes only.

(2) As used in this section, "bicentennial" refers to the bicentennial of the Lewis and Clark expedition.

(3) As used in this section, "commission" refers to the Lewis and Clark Bicentennial Commission established in subsection (3) of this section.

(4) The commission shall consist of the following nineteen (19) members:

(a) Two (2) members of the House of Representatives appointed by the Speaker of the House;

(b) Two (2) members of the State Senate appointed by the President of the Senate;

(c) The Secretary of the Education, Arts and Humanities Cabinet or his or her designee;

(d) Two (2) members from the Tourism Development Cabinet;

(e) One (1) member from the Kentucky Historical Society, appointed by the head of that agency;

(f) One (1) member from the Kentucky Heritage Council, appointed by the head of that agency;

(g) One (1) member from the Kentucky Humanities Council, appointed by the head of that agency;

(h) One (1) member from the Native American Commission, appointed by the head of that agency;

(i) One (1) member from the Kentucky African-American Commission, appointed by the head of that agency; and

(j) Seven (7) citizen members, one of whom shall be designated as the chairman and appointed by the Governor.

(5) The commission shall:

(a) Educate Kentucky residents and the nation about Kentucky's important role in the Lewis and Clark expedition;

(b) Assist local governments and organizations with planning, preparation, and grant applications for bicentennial events and projects;

(c) Coordinate federal, state, local, and nonprofit organizations' bicentennial activities occurring in Kentucky;

(d) Act as a point of contact for national bicentennial organizations wishing to distribute information to state and local groups about grant opportunities, meetings, and national events;

(e) Plan and implement appropriate events to commemorate the bicentennial;

(f) Seek federal grants and philanthropic support for bicentennial activities; and

(g) Perform other duties necessary to highlight Kentucky's role in the Lewis and Clark expedition.

(6) The provisions of this section shall expire on January 1, 2008.

The Committee Substitute to **HB 737** is as follows:

HB 737, AN ACT relating to the establishment of a Lewis and Clark Bicentennial Commission.

WHEREAS, the Lewis and Clark expedition officially began its voyage down the Ohio River near Louisville toward St. Louis, Missouri, on October 26, 1803, and the Falls of the Ohio River has been recognized by the National Park Service as an official part of the Lewis and Clark expedition trail.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. (1)The Lewis and Clark Bicentennial Commission is hereby established and attached to the Kentucky

Historical Society for administrative purposes only.

(2) As used in this section, "bicentennial" refers to the bicentennial of the Lewis and Clark expedition.

(3) As used in this section, "commission" refers to the Lewis and Clark Bicentennial Commission established in subsection (3) of this section.

(4) The commission shall consist of the following nineteen (19) members:

  (a) Two (2) members of the House of Representatives appointed by the Speaker of the House;
  (b) Two (2) members of the State Senate appointed by the President of the Senate;
  (c) The Secretary of the Education, Arts and Humanities Cabinet or his or her designee;
  (d) Two (2) members from the Tourism Development Cabinet;
  (e) One (1) member from the Kentucky Historical Society, appointed by the head of that agency;
  (f) One (1) member from the Kentucky Heritage Council, appointed by the head of that agency;
  (g) One (1) member from the Kentucky Humanities Council, appointed by the head of that agency;
  (h) One (1) member from the Native American Commission, appointed by the head of that agency;
  (i) One (1) member from the Kentucky African-American Commission, appointed by the head of that agency;
  (j) One (1) member from the Falls of Ohio Lewis and Clark Bicentennial Committee, appointed by the president of that committee; and
  (k) Six (6) citizen members, one of whom shall be designated as the chairman and appointed by the Governor.

(5) The commission shall:

  (a) Educate Kentucky residents and the nation about Kentucky's important role in the Lewis and Clark expedition;
  (b) Assist local governments and organizations with planning, preparation, and grant applications for bicentennial events and projects;
  (c) Coordinate federal, state, local, and nonprofit organizations' bicentennial activities occurring in Kentucky;
  (d) Act as a point of contact for national bicentennial organizations wishing to distribute information to state and local groups about grant opportunities, meetings, and national events;
  (e) Plan and implement appropriate events to commemorate the bicentennial;
  (f) Seek federal grants and philanthropic support for bicentennial activities; and
  (g) Perform other duties necessary to highlight Kentucky's role in the Lewis and Clark expedition.

(6) The provisions of this section shall expire on January 1, 2008.

SB 176, AN ACT relating to municipal electric utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.520 is amended to read as follows:

(1) Any city of the second, third, fourth, fifth, or sixth class may purchase, establish, erect, maintain, and operate electric light, heat, and power plants, with extensions and necessary appurtenances, within or without the corporate limits of the city, for the purpose of supplying the city and its inhabitants with electric light, heat, power, and telecommunications. Any city-owned utility created under this section that provides telecommunications services shall be regulated as to that service by KRS Chapter 278. Any city-owned utility created under this section that provides municipal telephone service shall be regulated as to that service by KRS Chapter 278. For the purpose of providing electric light, heat, power, and telephone services, a city of the second, third, fourth, fifth, or sixth class may enter into and fulfill the terms of an interconnection agreement with any electric or combination electric or gas utility whose rates and service are regulated by the Public Service Commission of Kentucky (or, if not so regulated, operating and having customers only outside of Kentucky), or an affiliate entirely owned by or under complete common ownership with an electric or combination electric and gas utility whose rates and service are regulated by the Public Service Commission of Kentucky. Any city of the second, third, fourth, fifth, or sixth class may establish, erect, maintain, and operate plants, individually or jointly with any of these utilities or utility affiliate. In the case of any joint action, a city and utility or utility affiliate may provide by contract for their respective responsibilities, for operation and maintenance and for the allocation of expenses, revenues, and power. If in the accomplishment of this purpose a city at any time has capacity or energy surplus to the immediate needs of the city and its inhabitants, the surplus, if not disposed of for consumption outside this state, may be disposed of~~[only]~~ to an electric or combination electric and gas utility whose rates and service are regulated by the Public Service Commission of Kentucky,~~[or]~~ to an affiliate entirely owned by or under complete common ownership with such a utility***, or to a city-owned utility established pursuant to KRS Chapter 96***.

(2) The city shall proceed in the same manner and be governed by the same conditions as are set forth in KRS 96.360 to 96.510 for the acquisition and operation of a water system, with the following exceptions:

(a) A petition calling for an election on the proposition of purchasing an existing plant shall be signed by at least two hundred (200) qualified voters of the city, rather than by twenty-five percent (25%) of the qualified voters of the city who voted at the last preceding regular election.

(b) Notwithstanding any other laws, bonds may be issued bearing interest at a rate or rates and may be sold on a basis to yield interest at a rate or rates as may be determined upon the sale of the bonds.

(c) Bonds of an issue, or bonds of two (2) or more issues consolidated for the purposes of sale, which equal or exceed $10,000,000 in the aggregate principal amount may be sold at public or private sale without compliance with KRS 424.360.

(3) This section constitutes a method for the acquisition of an electric light, heat, and power plant by any city of the second, third, fourth, fifth, or sixth class in addition or as an alternate to any other method authorized by statute, provided that the city was operating an electric plant on June 1, 1942, and has not elected to operate under KRS 96.550 to 96.900. No proceedings shall be required for the acquisition of any electric light, heat, or power plant or the issuance of bonds under this section except the proceedings required by KRS 96.360 to 96.510.

The Committee on Appropriations and Revenue reported **HB 294,** with Committee Substitute and Committee Amendment attached thereto, **HB 402,** with Committee Substitute and Committee Amendment attached thereto, **HB 542,** with Committee Substitute attached thereto, **HB 637,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Referred to the Committee on Rules.

The Committee Substitute to **HB 294** is as follows:

HB 294, AN ACT relating to sales and use tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property the gross receipts from the sale of which, or the storage, use, or other consumption of which, this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;

(2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property used for the performance of a lump-sum, fixed-fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use, or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents ($0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the cabinet. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;

(7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of property or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;

(8) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include, but not be limited to, natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the Revenue Cabinet;

(b) In making the determinations of eligibility, the cabinet shall exempt from taxation all gross receipts derived from sales:

1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;

2. Classified as "residential" by a municipally-owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;

3. Classified as "residential" by the governing body of a municipally-owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.

If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;

(c) The exemption shall not apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and

(d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years;

(9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telephone bill;

(10) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the seller and the seller maintains a file of the proof;

(11) Gross receipts derived from the sale of, and the storage, use, or other consumption in this state of, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property at a plant facility and which will be for sale are not subject to the sales or use tax. The property shall be regarded as having been purchased for resale. "Plant facility" shall have the same meaning as defined in KRS 139.170(3). For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

(a) Industrial processing includes refining, extraction of petroleum and natural gas, mining, quarrying, fabricating, and industrial assembling. As defined herein, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale shall mean:

1. Materials which enter into and become an ingredient or component part of the manufactured product.

2. Other tangible personal property which is directly used in manufacturing or industrial processing, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:

a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below.

b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, explosives, etc. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind.

c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, spray guns, etc., and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, cutting blades, etc. Normally, for industrial tools to be considered directly used in manufacturing, they shall come into direct contact with the product being manufactured.

3. Materials and supplies that are not reusable in the same manufacturing process at the completion of a single manufacturing cycle, excluding repair, replacement, or spare parts of any kind. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.

(b) It shall be noted that in none of the three (3) categories is any exemption provided for repair, replacement, or spare parts. Repair, replacement, or spare parts shall not be considered to be materials, supplies, or industrial tools directly used in manufacturing or industrial processing. "Repair, replacement, or spare parts" shall have the same meaning as set forth in KRS 139.170;

(12) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority;

(13) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage, use, or other consumption outside this state and delivered by the seller's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the buyer or seller or an agent or representative of the buyer or seller, or whether the F.O.B. is seller's shipping point or buyer's destination.

(a) As used in this subsection:

1. "Catalogs" means tangible personal property that is printed to the special order of the purchaser and composed substantially of information regarding goods and services offered for sale; and

2. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.

(b) The seller shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the cabinet;

(14) Gross receipts from the sale of water used in the raising of equine as a business;[~~ and~~]

(15) Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the seller's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the buyer or seller or an agent or representative of the buyer or seller, or whether the F.O.B. is seller's shipping point or buyer's destination.

(a) As used in this subsection, "metal retail fixtures" means check stands and belted and nonbelted checkout counters, whether made in bulk or pursuant to specific customer specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.

(b) The seller shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the cabinet***; and***

(16) Gross receipts from the sale of unenriched or enriched uranium purchased for ultimate storage, use, or other consumption outside this state and delivered to a common carrier in this state for delivery outside this state, regardless of whether the carrier is selected by the buyer or seller, or is an agent or representative of the buyer or seller, or whether the F.O.B. is seller's shipping point or buyer's destination.

Section 2. This Act takes effect August 1, 2002.

The Committee Amendment No. 1 to **HB 402** is as follows:

On page 1, line 9, by deleting "***2002-2004***" and inserting in lieu thereof "***2004-2006***"; and

On page 1, line 14, after "***under***"by deleting "***KRS 18A.355***" and inserting in lieu thereof "***the biennial budget***"; and

On page 15, between lines 16 and 17, by inserting the following:

"Section 7. Section 1 of this Act takes effect July 1, 2004."; and

On page 15, line 17, by deleting "7" and inserting "8" in lieu thereof; and

On page 15, line 20, after the first use of the word "and" by inserting "Sections 2 through 6 of" and deletes "takes" and insert in lieu thereof "take".

The Committee Substitute to **HB 542** is as follows:

HB 542, AN ACT relating to economic development through the promotion of the value-added hardwood products industry.

WHEREAS, despite previous legislation supporting the secondary wood products industry, a lack of program funding combined with increased foreign competition and the need for emerging technology have placed the value-added hardwood products industry at a competitive disadvantage compared to other industries in Kentucky and the value-added hardwood products industry outside of Kentucky; and

WHEREAS, although the survival and success of the value-added hardwood products industry in Kentucky is dependent upon companies acquiring the emerging industry-related technology that is available to out-of-state companies in part due to assistance from those states, Kentucky has not addressed the technology divide that exists for this industry within the Commonwealth; and

WHEREAS, because value-added hardwood products companies that gain access to and utilize emerging technology produce maximum value-added products, achieve increased environmental awareness, and provide high-paying jobs requiring a skilled and educated workforce, it is in the interest of the Commonwealth to assist in advancing the technology base of Kentucky's value-added hardwood products industry;

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act:

(1) "Authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;

(2) "Corporation" means the Kentucky Wood Products Competitiveness Corporation as created in KRS Chapter 154.47-015;

(3) "Cost" mean expenditures made in a tax year beginning on or after January 1, 2002:

(a) In the case of technology-based or environmentally conscious equipment, all expenses associated with the purchase, improvement, installation, or support infrastructure of this equipment;

(b) In the case of facilities, all expenses associated with site development, construction, expansion, improvement, renovation, or purchase of facilities for housing or utilizing technology-based or environmentally conscious equipment; and

(c) In the case of training, all expenses associated with educating employees to operate or manage technology-based or environmentally conscious equipment, but shall not include wages or salaries of the employees being trained, and the total costs for training shall not exceed ten thousand dollars ($10,000) per employee;

(4) "Credit year" means the tax year in which costs are incurred;

(5) "Environmentally conscious equipment" means equipment located in the Commonwealth that is utilized for the manufacturing of value-added hardwood products and improves environmental conditions, meeting the conditions set by the corporation;

(6) "Facilities" means buildings or structures located in the Commonwealth for housing or utilizing technology-based or environmentally conscious equipment, meeting the conditions set by the corporation;

(7) "Purchase" means a transaction under which title to an item is transferred for consideration or a lease contract for a period of at least three (3) years regardless of whether title to the item is transferred at the end of such a period;

(8) "Value-added hardwood products industry" means businesses that compose that segment of the forest products industry that use Kentucky harvested or manufactured hardwoods to manufacture, assemble, process, or produce wood into a finished product. The value-added hardwood products industry does not include the secondary wood products industry as defined in KRS Chapter 154.47-005(10) or primary wood products operations such as logging, sawmilling, chip milling, veneer milling, or pulp milling. Businesses that include both primary or secondary wood products operations and value-added hardwood products operations are deemed to be within the value-added hardwood products industry only in regard to their value-added hardwood products operations;

(9) "Technology-based equipment" means automated equipment that is utilized for the manufacturing of value-added hardwood products and purchased to improve user productivity, meeting the conditions set by the corporation; and

(10) "Training" means employer-paid training within Kentucky that is necessary to prepare Kentucky based employees to operate or manage technology based or environmentally conscious equipment within the value-added hardwood products industry, meeting the conditions set by the corporation.

SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) There shall be allowed a credit against the income tax imposed under KRS 141.040 for any taxpayer in an amount equal to one hundred percent (100%) of the cost of technology-based or environmentally conscious equipment, facilities for housing or utilizing this equipment, or training.

(2) No income tax credit shall be claimed by any taxpayer for any facility or equipment that is in use on the effective date of this Act, or for which a tax credit was previously claimed by any other taxpayer for any other tax year.

SECTION 3. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) The maximum credit permitted in any tax year shall not exceed ten percent (10%) of the credit allowed under Section 2 of this Act. Any unused credit may be carried forward for a maximum of fourteen (14) taxable years after the credit year, subject to the ten percent (10%) limitation as set forth in this subsection.

(2) The taxpayer shall refund the amount of the income tax credit determined by subsection (3) of this section if:

(a) Within nine (9) years of the credit year, the equipment, facilities, or training ceases to be utilized in the manner required by Sections 1 to 4 of this Act; or

(b) Within nine (9) years of the credit year, the Cabinet for Economic Development, the Revenue Cabinet, or the corporation finds that the taxpayer has ceased to qualify for tax credits under Sections 1 to 4 of this Act; or

(c) Within three (3) years of the credit year, the Cabinet for Economic Development, the Revenue Cabinet, or the corporation finds that the taxpayer has failed to meet the conditions set by the corporation.

(3) If it is determined that any taxpayer receiving the benefits under Sections 1 to 4 of this Act has failed to comply with the conditions contained in Sections 1 to 4 of this Act, that taxpayer shall be liable for the payment of one-half (1/2) of the income tax credits received relating to the noncompliance. Additionally, the taxpayer shall be liable for the payment of any additional income taxes as may be due after the income tax credits provided for in Section 2 of this Act are disallowed.

(4) The taxpayer who receives a credit under Section 2 of this Act for the purchase of equipment shall not be entitled to claim any other state or local tax credit on the purchase of the equipment, except the deduction for normal depreciation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) To claim the benefits under Section 2 of this Act, a taxpayer shall:

- *(a) Apply for tax incentives as set forth in subchapters 22, 26 or 28 of KRS Chapter 154 and meet approval criteria for the applicable tax incentive program, except that the taxpayer shall not meet the required criteria relating to the number of jobs to be created under the applicable program; and*
- *(b) Obtain approval from the authority, based on the conditions set forth in Section 2 of this Act.*

(2) The authority shall consult with the corporation for recommendations on applicant approval and shall determine whether the taxpayer is approved to received benefits under Section 2 of this Act. Upon approval, the Authority shall certify to the taxpayer and to the Revenue Cabinet that the taxpayer is engaged in the value-added hardwood products industry and is approved to received benefits under Section 2 of this Act.

(3) The Cabinet for Economic Development and the corporation shall promulgate any administrative regulations necessary to administer Sections 1 to 4 of this Act. The administrative regulations may include, but are not limited to, conditions for eligibility and approval set by the corporation, and the establishment of technical specifications and requirements for information and documentation from taxpayers seeking a credit under Section 2 of this Act.

(4) In order to determine eligibility for the credit or to ensure that the facility or equipment is being utilized in the required manner, the Cabinet for Economic Development and the Revenue Cabinet shall have the right to inspect pertinent facilities and records of a taxpayer requesting or receiving a credit under Sections 1 to 4 of this Act.

The Committee on Banking and Insurance reported **HB 721,** with Committee Amendment attached thereto, **HB 757**, and **HB 821,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 721, AN ACT relating to group health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any insurer issuing or delivering group health benefit plans in the Commonwealth shall provide to a policyholder, within twenty-one (21) days after a written request, information required for bid, including but not limited to the following information for the previous three (3) years or for the entire period of coverage, whichever is shorter:

- *(a) Claims experience;*
- *(b) Premiums paid;*
- *(c) Number of insureds on a monthly basis; and*
- *(d) Dependent status.*

(2) This section shall not require the insurer to disclose any information that is required by law to be confidential.

SECTION 2. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any insurer issuing or delivering group health insurance policies in the Commonwealth shall provide to a policyholder, within twenty-one (21) days after a written request, information required for bid, including, but not limited to, the following information for the previous three (3) years or for the entire period of coverage, whichever is shorter:

- *(a) Claims experience;*
- *(b) Premiums paid;*
- *(c) Number of insureds on a monthly basis; and*
- *(d) Dependent status.*

(2) This section shall not require the insurer to disclose any information that is required by law to be confidential.

SECTION 3. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any health maintenance organization issuing or delivering group health insurance policies, plans, or contracts in the Commonwealth shall provide to a contract holder, within twenty-one (21) days after a written request, information

required for bid, including, but not limited to, the following information for the previous three (3) years or for the entire period of coverage, whichever is shorter:

(a) Claims experience;

(b) Premiums paid;

(c) Number of insureds or enrollees on a monthly basis; and

(d) Dependent status.

(2) This section shall not require the health maintenance organization to disclose any information that is required by law to be confidential.

The Committee Amendment No. 1 to **HB 721** is as follows:

On page 1, lines 8 and 21, and on page 2, line 9, before "***Claims***" by inserting "***Aggregate***"; and

On page 1, lines 8 and 21, and on page 2, line 9, after "***experience***" by inserting "***, by month, including claims experience for pharmacy benefits***"; and

On page 1, lines 9 and 22, and on page 2, line 10, before "***Premiums***" by inserting "***Total***"; and

On page 1, lines 9 and 22, and on page 2, line 10, after "***paid***" by deleting "***;***" and inserting "***, by month; and***"; and

On page 1, lines 10 and 23, and on page 2, line 11, before "***Number***" by inserting "***Total***"; and

On page 1, lines 10 and 23, and on page 2, line 11, by deleting "***; and***" and inserting "***, by coverage tier.***"; and

On page 1, by deleting lines 11 and 24 in their entirety; and

On page 2, by deleting line 12 in its entirety; and

On page 1, lines 12 and 25, and on page 2, line 13, after "***disclose***" by inserting "***any nonpublic personal health information without the written consent of the individual who is the subject of the information, as required by administrative regulations promulgated by the commissioner.***";and

On page 1, lines 12 and 25, by deleting "***any information that is***"; and

On page 1, by deleting line 13 in its entirety; and

On page 2, by deleting lines 1 and 14 in their entirety.

HB 757, AN ACT relating to the prohibition of retroactive denial of reimbursement for services covered by a health benefit plan.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17A-708 is amended to read as follows:

(1) An insurer shall not require a provider to appeal errors in payment where the insurer has not paid the claim according to the contracted rate. Miscalculations in payments made by the insurer shall be corrected and paid within thirty (30) calendar days upon the insurer's receipt of documentation from the provider verifying the error.

(2) An insurer shall not be required to correct a payment error to a provider if the provider's request for a payment correction is filed more than twenty-four (24) months after the date that the provider received payment for the claim from the insurer.

(3) (a) Except in cases of fraud, an insurer may only retroactively deny reimbursement to a provider during the twenty-four (24) month period after the date that the insurer paid the claim submitted by the provider.

(b) An insurer that retroactively denies reimbursement to a provider under this section shall give the provider a written or electronic statement specifying the basis for the retroactive denial.

(c) If the retroactive denial of reimbursement results from coordination of benefits, the written statement shall specify the name and address of the entity acknowledging responsibility for payment of the denied claim.

(d) If an insurer retroactively denies reimbursement for services as a result of coordination of benefits with another insurer, the provider shall have twelve (12) months from the date that the provider received notice of the denial, unless the insurer that retroactively denied reimbursement permits a longer period, to submit a claim for reimbursement for the service to the insurer, the medical assistance program, or the Medicare program responsible for payment.

(4) Notwithstanding any provision of law to the contrary, an insurer or other person providing or administering a health benefit plan shall not retroactively deny reimbursement for services rendered that have been previously electronically adjudicated if the denial is the result of an error on the part of the insurer or other person providing or administering a health benefit plan or any agent of the insurer or any other person providing or administering a health benefit plan.

HB 821, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall include a person, including an elected public official, who is regularly employed by any department, board, agency, branch of state government, or any municipal, urban-county, charter county, or county government, whose legislative body has opted to participate in the state health insurance program pursuant to KRS 79.080 and who is a contributing member to any one (1) of the retirement systems administered by the state. It shall also include a person who must fulfill the requirements established by the Kentucky Board of Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems and includes members of the Legislators' Retirement Plan as provided in KRS 18A.2287. It shall also include a person who is a present or future recipient of a retirement allowance from the Teachers' Retirement System of Kentucky who either satisfies the requirements of KRS 161.525, 161.620, and 161.675 or who is board certified, including a beneficiary of a retired member who is receiving a retirement allowance from the Teachers' Retirement System of Kentucky, except that a member who is receiving a retirement allowance from the Teachers' Retirement System and who is age sixty-five (65) or older shall not be included.

(2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health care coverage including, but not limited to, indemnity, health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of state employees. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994. All state employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the state or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment. For calendar year 2001 only, an emergency shall exist when any county in which only one (1) health insurance company offers a single plan to state employees and, subsequent to the open enrollment period, the health insurance company fails to maintain at least sixty-five percent (65%) of its contracts within the geographic region with specialty physicians who were participating in the network at the time of open enrollment. The Finance and Administration Cabinet shall immediately notify the Governor, the Legislative Research Commission, and the secretary of the Personnel Cabinet and shall be authorized to immediately negotiate and contract with additional health insurance companies for additional plans to serve any county without meeting the requirements of the Model Procurement Code under KRS Chapter 45.

(b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws.

(c) Any carrier bidding to offer health care coverage to members of the state group shall agree to provide coverage to all members of the state group, including both active employees and retirees within the county or counties specified in its bid. Furthermore, any carrier bidding to offer health care coverage to members of the state group shall also agree to rate all such members of the state group as a single entity, except for those retirees whose former employers insure their active employees outside the state health insurance program.

(d) Any carrier bidding to offer health care coverage to any member of the state group shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance of data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual member; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.

(e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall provide to the General Assembly in June of each year an analysis of enrollment, claims, utilization data of all carriers for the prior plan year ending December 31, and on the financial stability of the program. The report shall include, but not be limited to, loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, paid dependent coverage, and statutorially required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including, but not limited to, loss ratios, reserves, and reinsurance agreements.

(f) If any agency participating in the state employee health insurance program for its active members terminates participation in the state employee health insurance program for its active members and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, neither the agency nor the employees shall receive the state-funded contribution after termination from the state employee health insurance program.

(g) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state health insurance plan's appropriation account.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, may procure from one (1) or more dental insurance companies, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under Subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government; or

(c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government for any other health care coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a managed health care plan or of a prepaid dental plan, under which he has elected coverage, into either the service area of another managed health care plan or prepaid dental plan or into an area of the state not within a managed health care plan service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health care plan or dental plan.

(6) No payment of premium by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and other provisions the commissioner of insurance may approve.

(8) The policy or policies shall contain the provision that employees or retired employees shall be allowed to change health care plans during the reopening period without any limitation for pre-existing conditions if the employee has met the pre-existing condition limitation upon initial employment or reemployment with the group.

(9) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining health care coverage and dental coverage under the provisions of this section.

(10) Group rates under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(11) The health care contract or contracts for state employees shall be entered into for a period of not less than one (1) year.

(12) The secretary shall appoint twenty-eight (28) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state health insurance program for state employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the

seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.

(13) Notwithstanding any other provision of law to the contrary, the policy or policies provided to state employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of state employees or their dependents.

(14) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Personnel Cabinet, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.

(15) Any carrier bidding to offer health care coverage under this section shall be required to bid on geographic areas as designated by the Personnel Cabinet in which one million (1,000,000) persons or more reside.

The Committee Amendment No. 1 to **HB 821** is as follows:

On page 8, line 5, after "***(15)***" by inserting "***The Personnel Cabinet is encouraged to study whether it is fair and reasonable and in the best interests of the state group to allow***"; and

On page 8, lines 5 and 6, by deleting "***shall be required to bid on***" and by inserting in lieu thereof "***to submit bids that may vary county by county or by larger***"; and

On page 8, lines 6 and 7, by deleting "***as designated by the Personnel Cabinet in which one million (1,000,000) persons or more reside***".

Calendar

HB 745, HB 792, HB 809, HB 568, HB 717, HB 723, HB 728, HB 749, HB 759, HB 775, HCR 184, HB 614, HB 662, HCR 158, HB 633, and **HB 656** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report of Committees (Continued)

Representative Stumbo moved to suspend the rules to allow for Rules Committee Report. Agreed.

The Committee on Rules reported that **HB 126, HB 684, HB 68, HB 498, HB 598, HB 679, HB 703, HB 731, HJR 148, HCR 159, HJR 167, HJR 168, HJR 169, SB 18, HB 545, HB 723,** and **HB 728** have been posted for passage in the Orders of the Day for March 7, 2002.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 496**

Orders of the Day

HB 533, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Simpson moved the adoption of Floor Amendment No. 1 to **HB 533**. Agreed.

Representative Simpson moved that **HB 533**, as amended, be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 6, 2002, roll call on **HB 533** - Appendix.)

HB 533, as amended, was passed and the title agreed to.

Representative Simpson moved that the vote by which **HB 533**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 45** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:45 p.m.)

Orders of the Day (Continued)

HB 602, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of the Committee Substitute to **HB 602**. Agreed.

Representative Wilkey moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 602**. Agreed.

Representative Smith moved the adoption of Floor Amendment No. 7 to the Committee Substitute to **HB 602**. Agreed.

Representative Wilkey moved the adoption of Floor Amendment No. 8 to the Committee Substitute to **HB 602**. Agreed.

Representative Wilkey moved that **HB 602**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 85, Nays 11**. (See March 6, 2002, roll call on **HB 602** - Appendix.)

HB 602, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 602**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 673 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 673** be passed.

On the roll call the vote was: **Yeas 91, Nays 1**. (See March 6, 2002, roll call on **HB 673** - Appendix.)

HB 673 was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 673** was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 36** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:05 p.m.)

Orders of the Day (Continued)

HB 583, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sims moved the adoption of the Committee Substitute to **HB 583**. Agreed.

Representative Sims moved that **HB 583**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 6, 2002, roll call on **HB 583** - Appendix.)

HB 583, by way of Committee Substitute, was passed and the title agreed to.

Representative Sims moved that the vote by which **HB 583**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 625 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoover moved that **HB 625** be passed.

On the roll call the vote was: **Yeas 83, Nays 3**. (See March 6, 2002, roll call on **HB 625** - Appendix.)

HB 625 was passed and the title agreed to.

Representative Hoover moved that the vote by which **HB 625** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 631, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved the adoption of Committee Amendment No. 1 to **HB 631**. Agreed.

Representative Webb moved that **HB 631**, as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 6, 2002, roll call on **HB 631** - Appendix.)

HB 631, as amended, was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 631**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 672 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Adams moved that **HB 672** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 6, 2002, roll call on **HB 672** - Appendix.)

HB 672 was passed and the title agreed to.

Representative J. Adams moved that the vote by which **HB 672** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 705, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved the adoption of Floor Amendment No. 3 to **HB 705**. Agreed.

Representative Collins moved that **HB 705**, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 6, 2002, roll call on **HB 705** - Appendix.)

HB 705, as amended, was passed and the title agreed to.

Representative Collins moved that the vote by which **HB 705**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 715 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **HB 715** be passed.

On the roll call the vote was: **Yeas 90, Nays 2**. (See March 6, 2002, roll call on **HB 715** - Appendix.)

HB 715 was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 715** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 720 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved that **HB 720** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 6, 2002, roll call on **HB 720** - Appendix.)

HB 720 was passed and the title agreed to.

Representative Weaver moved that the vote by which **HB 720** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 228, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative De. Butler moved the adoption of the Committee Substitute to **HB 228**. Agreed.

Representative De. Butler moved that **HB 228**, by way of Committee Substitute, be passed.

Representative Coleman moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 228**.

Representative Gray inquired whether Floor Amendment No. 1 to the Committee Substitute **HB 228** was germane.

The Speaker ruled that Floor Amendment No. 1 was not germane.

On the roll call on the passage of **HB 228** by way of Committee Substitute the vote was: **Yeas 94, Nays 1**. (See March 6, 2002, roll call on **HB 228** - Appendix.)

HB 228, by way of Committee Substitute, was passed and the title agreed to.

Representative De. Butler moved that the vote by which **HB 228**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 626 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved that **HB 626** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 6, 2002, roll call on **HB 626** - Appendix.)

HB 626 was passed and the title agreed to.

Representative Rasche moved that the vote by which **HB 626** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 503 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HB 503** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 6, 2002, roll call on **HB 503** - Appendix.)

HB 503 was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 503** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 92 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pullin moved that **HJR 92** be adopted.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 6, 2002, roll call on **HJR 92** - Appendix.)

HJR 92 was adopted.

Representative Pullin moved that the vote by which **HJR 92** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 183, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved the adoption of the Committee Substitute to **HB 183**. Agreed.

Representative Wilkey moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 183**. Agreed.

Representative Lindsay moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 183**.

Floor Amendment No. 1 to the Committee Substitute to **HB 183** was rejected by voice vote.

Representative Cherry moved that **HB 183**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 87, Nays 10**. (See March 6, 2002, roll call on **HB 183** - Appendix.)

HB 183, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Cherry moved that the vote by which **HB 183**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 145, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 145** be returned to the Orders of the Day and retain its position therein. Agreed.

HB 502, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Belcher moved the adoption of the Committee Substitute to **HB 502**. Agreed.

Representative L. Belcher moved that **HB 502**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 6, 2002, roll call on **HB 502** - Appendix.)

HB 502, by way of Committee Substitute, was passed and the title agreed to.

Representative L. Belcher moved that the vote by which **HB 502**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 529 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pullin moved that **HB 529** be passed.

On the roll call the vote was: **Yeas 82, Nays 12**. (See March 6, 2002, roll call on **HB 529** - Appendix.)

HB 529, was passed and the title agreed to.

Representative Pullin moved that the vote by which **HB 529** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 587 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoffman moved that **HB 587** be passed.

On the roll call the vote was: **Yeas 77, Nays 14**. (See March 6, 2002, roll call on **HB 587** - Appendix.)

HB 587 was passed and the title agreed to.

Representative Hoffman moved that the vote by which **HB 587** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 649 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brinkman moved that **HB 649** be passed.

On the roll call the vote was: **Yeas 95, Nays 1**. (See March 6, 2002, roll call on **HB 649** - Appendix.)

HB 649, was passed and the title agreed to.

Representative Brinkman moved that the vote by which **HB 649** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 671, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of the Committee Substitute to **HB 671**. Agreed.

Representative Gray moved that **HB 671**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 6, 2002, roll call on **HB 671** - Appendix.)

HB 671, by way of Committee Substitute, was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 671**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 125 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Adams moved that **HCR 125** be adopted.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 6, 2002, roll call on **HCR 125** - Appendix.)

HCR 125 was adopted.

Representative R. Adams moved that the vote by which **HCR 125** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 117, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved the adoption of the Committee Substitute to **HB 117**. Agreed.

Representative Weaver moved that **HB 117**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 1**. (See March 6, 2002, roll call on **HB 117** - Appendix.)

HB 117, by way of Committee Substitute, was passed and the title agreed to.

Representative Weaver moved that the vote by which **HB 117**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 36** was delivered to the Senate and signed by the President. Delivered to the Governor on March 6, 2002, at 4:04 p.m.

Orders of the Day (Continued)

HB 693, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 693**. Agreed.

Representative Burch moved that **HB 693**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 46, Nays 43**. (See March 6, 2002, roll call on **HB 693** - Appendix.)

Representative Ford asked that the Journal note his abstention from voting on **HB 693**, in accordance with Section 57 of the Kentucky Constitution.

HB 693, by way of Committee Substitute, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 693**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 147 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HCR 147** be adopted.

On the roll call the vote was: **Yeas 88, Nays 0**. (See March 6, 2002, roll call on **HCR 147** - Appendix.)

HCR 147 was adopted.

Representative Palumbo moved that the vote by which **HCR 147** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 140 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved that **HJR 140** be adopted.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 6, 2002, roll call on **HJR 140** - Appendix.)

HJR 140 was adopted.

Representative Stacy moved that the vote by which **HJR 140** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 157 with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of the Committee Substitute to **HJR 157**. Agreed.

Representative Wilkey moved that **HJR 157**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 6, 2002, roll call on **HJR 157** - Appendix.)

HJR 157, by way of Committee Substitute, was adopted.

Representative Wilkey moved that the vote by which **HJR 157**, by way of Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved to waive the posting requirement on **SB 153**. Agreed.

Representative Stumbo moved that the rules be suspended for Introductions of Bills and Report of Committees. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 222, by Representatives Marzian, Feeley, Meeks, Riner, DeWeese, Heleringer, Bratcher, Crimm, Brinkman, Jenkins, L. Clark, Horlander, P. Clark, Miller, Wayne, Burch, Riggs, and De. Butler: A RESOLUTION honoring the Louisville Orchestra as one of the premier symphony orchestras in the United States.

Report of Committees (Continued)

The Committee on Licensing and Occupations reported **HB 743,** with Committee Substitute attached thereto, and **HB 804,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 743, AN ACT relating to charitable gaming.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 238 IS CREATED TO READ AS FOLLOWS:

To promote the effective oversight, study and monitoring of the charitable gaming industry in Kentucky, the commission shall have the authority to establish and implement pilot programs regarding the conduct of charitable gaming. The commission may authorize individual licensees or groups of licensees to participate in pilot programs designed to evaluate the effectiveness and productivity of innovations in technology, in the conduct of authorized charitable games, in the frequency and duration of charitable gaming activities, in reporting, accounting and recordkeeping techniques, and in licensing procedures, training and education. Pilot programs shall be designed and implemented upon agreement by the executive director and a majority of the board of commissioners. Pilot programs shall be temporary in duration and shall not exceed one hundred eighty (180) days in length, or, in the case of programs related to charitable gaming reporting, two (2) complete calendar quarters. To be eligible for participation in a pilot program, a licensee shall not be the subject of a pending administrative disciplinary action and shall be current on all fees or fines owed the commission. Licensees participating in any pilot program shall have satisfied the requirements of Section 10 of this Act for the most recent calendar year and shall demonstrate current compliance with that section at the time of participation, unless the pilot program is specifically designed to address the deficiencies of licensees having violated Section 10 of this Act. Upon completion of a pilot program, the executive director shall issue to the board a report explaining the results of the program.

Section 2. KRS 238.500 is amended to read as follows:

The General Assembly of the Commonwealth of Kentucky hereby declares that charitable gaming conducted by charitable organizations is an important method of raising funds for legitimate charitable purposes and is in the public interest. The purpose of this chapter is to comply with constitutional requirements by establishing an effective and efficient mechanism for regulating charitable gaming which includes defining the scope of charitable gaming activities, setting standards for the conduct of charitable gaming which insure honesty and integrity, providing for means of ***secure, electronic*** accounting for all moneys generated through the conduct of charitable gaming, and providing for suitable penalties for violations of laws and administrative regulations. The intent of this chapter is to prevent the commercialization of charitable gaming, to prevent participation in charitable gaming by criminal and other undesirable elements, and to prevent the diversion of funds from legitimate charitable purposes. In order to carry out the purpose and intent, the provisions of this chapter, and any administrative regulations promulgated in accordance with this chapter, shall be construed in the public interest and strictly enforced.

Section 3. KRS 238.505 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "***Commission***[~~Department~~]" means the ***Charitable Gaming Regulatory Commission***[~~Department of Charitable Gaming~~] within the Public Protection and Regulation Cabinet;

(2) "Charitable gaming" means bingo, charity game tickets, raffles, and charity fundraising events conducted for fundraising purposes by charitable organizations licensed and regulated under the provisions of this chapter. Charitable gaming shall not include ***gambling devices as defined in KRS 528.010(4), electronic or electromechanical facsimiles of gambling***

devices as defined in subsection (28) of this section, video slot machines, ***video poker machines***[~~electronic video gaming devices~~], wagering on live sporting events, or simulcast broadcasts of horse races;

(3) "Charitable organization" means a nonprofit entity organized for charitable, religious, educational, literary, civic, fraternal, or patriotic purposes;

(4) "Bingo" means a specific game of chance in which participants use cards or paper sheets, or card-minding device representations thereof, divided into horizontal and vertical spaces, each of which is designated by a letter and a number, and prizes are awarded on the basis of the letters and numbers on the card conforming to a predetermined and preannounced configuration of letters and numbers selected at random~~.~~ ***Bingo may include the use of electronic, computer or other technologic aids as that term is defined in subsection (29) of this section***;

(5) "Charity game ticket" means a game of chance using a folded or banded paper ticket, or a paper card with perforated break-open tabs, the face of which is covered or otherwise hidden from view to conceal a number, letter, symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners and shall include charity game tickets that utilize a seal card. Charity game ticket shall include pulltabs~~.~~ ***The play of charity game tickets may include the use of electronic, computer or other technologic aids as that term is defined in subsection (29) of this section***;

(6) "Seal card" means a board or placard used in conjunction with charity game tickets, that contains a seal or seals which, when removed or opened, reveal predesignated winning numbers, letters, or symbols;

(7) "Raffle" means a game of chance in which a participant is required to purchase a ticket for a chance to win a prize, with the winner to be determined by a random drawing;

(8) "Charity fundraising event" means a fundraising activity of limited duration at which games of chance approved by the ***commission***[~~department~~] are conducted, including bingo, raffles, charity game tickets, special limited charitable games, and wagering on prerecorded horse races, KRS Chapter 230 notwithstanding. Examples of such activities include events that attract patrons for community, social, and entertainment purposes apart from charitable gaming, such as fairs, festivals, carnivals, and bazaars;

(9) "Manufacturer" means a person who assembles from raw materials or subparts any charitable gaming equipment or supplies used in the conduct of charitable gaming, including a person who converts, modifies, and adds to or removes parts from, charitable gaming equipment and supplies. The term shall not include:

(a) Any person who services or repairs charitable gaming supplies and equipment, so long as that person replaces or repairs an incidental, malfunctioning, or nonfunctioning part with a similar or identical part; and

(b) Any distributor who cuts, collates, and packages for distribution any gaming supplies and equipment purchased in bulk;

(10) "Distributor" means a person who sells, markets, leases, or otherwise furnishes to a charitable organization charitable gaming equipment or supplies, or both, used in the conduct of charitable gaming. "Distributor" shall not include:

(a) A resident printer who prints raffle tickets at the request of a licensed charitable organization; and

(b) A licensed charitable organization that affects a one-time donation of charitable gaming supplies or equipment to another licensed charitable organization if the donation is first approved by the ***commission***[~~department~~].

(11) "Charitable gaming facility" means a person, including a licensed charitable organization, that owns or is a lessee of premises which are leased or otherwise made available to two (2) or more licensed charitable organizations during a one (1) year period for the conduct of charitable gaming;

(12) "Gross receipts" means all moneys collected or received from the conduct of charitable gaming;

(13) "Adjusted gross receipts" means gross receipts less all cash prizes and the amount paid for merchandise prizes purchased;

(14) "Net receipts" means adjusted gross receipts less all expenses, charges, fees, and deductions authorized under this chapter;

(15) "Charitable gaming supplies and equipment" means any material, device, apparatus, or paraphernalia customarily used in the conduct of charitable gaming, including bingo cards and paper, charity game tickets, ***electronic, computer or other technologic aids as that term is defined in subsection (29) of this section and used in the conduct of charitable gaming,*** and other apparatus or paraphernalia used in conducting games of chance at charity fundraising events subject to regulation under this chapter. The term shall not include any material, device, apparatus, or paraphernalia incidental to the game, such as pencils, daubers, playing cards, or other supplies that may be purchased from normal sources of supply;

(16) "Door prize" means a prize awarded to a person based solely upon the person's attendance at an event or the purchase of a ticket to attend an event;

(17) "Special limited charitable game" means roulette; blackjack; poker; keno; money wheel; baccarat; pusher-type games; any dice game where the player competes against the house; and any other game of chance as identified, defined, and approved by administrative regulation of the ***commission***[~~department~~];

(18) "Special limited charity fundraising event" means any type of charity fundraising event, commonly known as and operated as a "casino night," "Las Vegas night," or "Monte Carlo night," at which the predominant number or types of games offered for play are special limited charitable games;

(19) "Session or bingo session" means a single gathering at which a bingo game or series of successive bingo games are played, excluding bingo played at a charity fundraising event;

(20) "Immediate family" means:

(a) Spouse and parents-in-law;

(b) Parents and grandparents;

(c) Children and their spouses; and

(d) Siblings and their spouses;

(21) "Affiliate" means any corporation, partnership, association, or other business or professional entity or any natural person that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with a licensed manufacturer, distributor, or charitable gaming facility;

(22) "Secretary" means the secretary of the Public Protection and Regulation Cabinet;

(23) "Commissioner" means ***a member of the board of commissioners of the Charitable Gaming Regulatory Commission***[~~the commissioner of the Department of Charitable Gaming~~] within the Public Protection and Regulation Cabinet;

(24) "Chairperson" means the chief executive officer and any officer, member, or employee of a licensed charitable organization who will be involved in the management and supervision of charitable gaming as designated in the organization's charitable gaming license application under KRS 238.535(9)(g);

(25) "Year" means calendar year except as used in KRS 238.545(4), 238.547(1), and 238.555(7), when "year" means the licensee's license year;[~~ and~~]

(26) "Card-minding device" means any mechanical, electronic, electromechanical, or computerized device that is interfaced with or connected to equipment used to conduct a game of bingo and that allows a player to store, display, and mark a bingo card face[~~. A card-minding device shall not be designed and manufactured to resemble any electronic gaming device that utilizes a video display monitor, such as a video lottery terminal, video slot machine, video poker machine, or any similar video gaming device.~~]***;***

(27) "Executive Director" means the executive director of the Charitable Gaming Regulatory Commission within the Public Protection and Regulation Cabinet;

(28) "Electronic or electromechanical facsimile of a gambling device" means an electronic or electromechanical duplicate of a gambling device as defined in KRS 528.010(4), including but not limited to video slot machines and video poker machines;

(29) "Electronic, computer or other technologic aid" means a device such as a computer, telephone, cable, television, satellite or selection device that, when used in the conduct of charitable gaming:

(a) Is not a game of chance but assists a player or the playing of a game;

(b) Is operated to broaden participation in a game where individual players play with or against other players rather than against a machine or device; and

(d) Is not an electronic or electromechanical facsimile of a gambling device; and

(30) "Board of commissioners" or "board" means the seven (7) commissioners that comprise the Charitable Gaming Regulatory Commission.

Section 4. KRS 238.510 is amended to read as follows:

(1) The ***Charitable Gaming Regulatory Commission***[~~Department of Charitable Gaming~~] is created as ***an independent agency of state government established*** [~~a department~~] within the Public Protection and Regulation Cabinet. The ***commission shall consist of the board of commissioners, executive director and any staff employed to administer the provisions of this chapter. The commission***[~~department~~] shall license and regulate the conduct of charitable gaming and license and regulate charitable organizations that desire to engage in charitable gaming, charitable gaming facilities, manufacturers, and distributors in the Commonwealth of Kentucky in accordance with the provisions of this chapter.

(2) ***The board of commissioners shall be composed of seven (7) members who shall be appointed by the Governor. Recommendations for appointments to the board may be sought from any entity representative of the charitable gaming industry, including representatives of the various classes of charitable organizations qualified to possess charitable gaming licenses. These classes of licensees shall include, but not be limited to, religious and veterans organizations, volunteer fire departments, public and private schools and school booster groups, and fraternal societies. Each commissioner shall have demonstrated experience, expertise, interest or participation in some facet of the charitable gaming industry as a condition of appointment. Any entity making recommendations for appointment to the board shall submit to the Governor a list of three (3) names for consideration, and the Governor may choose commissioners from these lists or may reject all nominees and request the submission of new nominees. At least one (1) commissioner shall be a certified public accountant, and at least one (1) commissioner shall be a member of the Kentucky Bar Association. All commissioners shall be residents of the Commonwealth of Kentucky. For initial appointments two (2) commissioners shall be appointed for one (1) year terms, two (2) for two (2) year terms and three (3) for three (3) year terms. Thereafter, all commissioners appointed by the Governor shall serve a term of four (4)***

years or until their successors are appointed and duly qualified. No commissioner shall serve more than two (2) terms of four (4) years. The Governor shall annually designate one (1) of the commissioners as chairman of the board, and the board shall annually elect one (1) other commissioner as a vice chair. No commissioner shall serve as chairman or vice chair for more than two (2) consecutive years. Commissioners shall be paid fifty dollars ($50) for each meeting attended, in addition to travel expenses and other expenses incurred in the attendance of meetings and the performance of official functions[~~The department shall be headed by a commissioner who shall be appointed by the Governor upon recommendation of the secretary. The commissioner shall employ staff as may be necessary to administer and enforce the provisions of this chapter~~].

(3) ***The Governor shall appoint an executive director for the commission. The executive director shall be responsible for the day-to-day management of the commission's affairs and shall employ staff as may be necessary to administer and enforce the provisions of this chapter.*** All ***commission***[~~department~~] staff shall be[~~ classified and~~] employed in accordance with applicable personnel requirements of the Personnel Cabinet in accordance with KRS Chapter 18A. ***The commission shall establish and maintain in Frankfort an office for the conduct of its business.***

(4) No employee of the ***commission***[~~department~~] during his or her term of employment shall be an officer in a charitable organization that is licensed to conduct charitable gaming or be involved in the conduct of charitable gaming as a member of a licensed charitable organization. No employee of the ***commission***[~~department~~] during his or her term of employment shall be licensed as a manufacturer, distributor, or charitable gaming facility, or have a financial interest in any business that is licensed as a manufacturer, distributor, or charitable gaming facility.

(5) The ***executive director***[~~commissioner~~] shall ***employ***[~~appoint~~] charitable gaming investigators who shall have the powers of peace officers throughout the Commonwealth; however, those powers shall be limited to:

(a) Enforcement of the provisions of KRS Chapter 238, relating to charitable gaming;

(b) Violations of KRS Chapter 528[~~,~~] relating to ***illegal gambling***[~~:~~

~~1. Unlicensed and illegal charitable gaming;~~

~~2. Gambling offenses committed on licensed charitable gaming premises; and~~

~~3. Gambling offenses committed in conjunction with charitable gaming~~];

(c) Violations of KRS Chapter 514, relating to theft, embezzlement, or other illegal diversions of charitable gaming proceeds;

(d) Violations of KRS Chapters 516 and 517, relating to forgery and fraud in the conduct of charitable gaming;

(e) Violations relating to the damage or destruction of real or personal property owned or leased by a charitable gaming licensee; and

(f) Violation of any criminal[~~ felony~~] offense committed:

1. On licensed charitable gaming premises; ***or***[~~and~~]

2. In the presence of a charitable gaming investigator ***when the offense committed is a felony***.

(6) Charitable gaming investigators shall satisfy the certification standards established by the Department of Criminal Justice Training pursuant to KRS Chapter 15. ***Any commission employee with direct supervisory responsibility over charitable gaming investigators shall be qualified to possess, and shall possess, peace officer powers granted under subsection (5) of this section as a condition of employment.*** The ***executive director and any other person employed in a policy-making position with the commission***[~~commissioner~~] may possess peace officer powers granted under subsection (5) of this section, if he or she is duly qualified. Charitable gaming investigators ***and other commission employees possessing peace officer powers*** shall not qualify for hazardous duty coverage under the Kentucky Employees Retirement System.

(7) Charitable gaming investigators[~~ so appointed~~] shall not possess peace officer powers other than those provided in subsection (5) of this section.

Section 5. KRS 238.515 is amended to read as follows:

The ***commission***[~~department~~] shall license and regulate the conduct of charitable gaming in the Commonwealth of Kentucky. In discharging this responsibility, the ***commission***[~~department~~] shall have the following powers and duties:

(1) Licensing charitable organizations, charitable gaming facilities, manufacturers, and distributors that desire to engage in charitable gaming;

(2) Establishing and enforcing reasonable standards for the conduct of charitable gaming and the operation of charitable gaming facilities;

(3) Prescribing reasonable fees for licenses;

(4) Establishing ***and implementing reasonable*** standards ***and secure electronic systems*** of accounting, recordkeeping, and reporting to insure charitable gaming receipts are properly accounted for;

(5) Establishing a process for reviewing complaints and allegations of wrongdoing, and for investigating complaints with merit. In furtherance of this duty, the ***commission***[~~department~~] shall have the authority to issue administrative subpoenas and summonses ***for the purpose of compelling the attendance of witnesses and the production of documents, records or***

other evidence. If a person to whom a subpoena is issued refuses to appear or to produce documents, records or other evidence, the commission may compel compliance with the subpoena by obtaining an appropriate order from the Franklin Circuit Court. The *commission*~~[department]~~ shall also establish toll-free telephone service for receiving complaints and inquiries;

(6) Taking appropriate disciplinary action and making referrals for criminal prosecution of persons who do not operate in compliance with this chapter;

(7) Collecting and depositing all fees and fines in the charitable gaming regulatory account and administering the account;

(8) Employing necessary staff, securing adequate office space, and executing other administrative and logistical matters as may be necessary to assure proper functioning of the *commission*~~[department]~~;~~[and]~~

(9) Promulgating administrative regulations, in accordance with KRS Chapter 13A, which are necessary to carry out the purposes and intent of this chapter*; and*

(10) Issuing final orders and other orders as may be necessary for the exercise of its powers and performance of its duties.

Section 6. KRS 238.520 is amended to read as follows:

(1) *The board of commissioners shall have oversight responsibility with respect to the commission's regulation of charitable gaming in Kentucky. In furtherance of this responsibility, the board shall monitor and study the charitable gaming industry and shall have the regulatory discretion and authority to establish standards for the conduct of charitable gaming consistent with the provisions of this chapter. The executive director and commission staff shall provide all administrative and logistical support necessary to the board's exercise of its proper functions and shall make reports to the board from time to time as the board may require*~~[The Charitable Gaming Advisory Commission is created to be composed of nine (9) members consisting of:~~

~~(a) The secretary of the Public Protection and Regulation Cabinet or his designee;~~

~~(b) The Attorney General or his designee;~~

~~(c) One (1) representative from the Kentucky Commonwealth's Attorneys Association;~~

~~(d) One (1) representative from the Kentucky Charitable Gaming Association;~~

~~(e) One (1) certified public accountant; and~~

~~(f) Four (4) members selected from the public at large.~~

~~The certified public accountant, the four (4) at-large members, and the representatives from the Kentucky Commonwealth's Attorneys Association and the Kentucky Charitable Gaming Association shall be appointed by the Governor. The representative from each of the two (2) associations shall be selected from a list of at least three (3) names submitted to the Governor by the respective association]~~.

(2) *(a) The board shall meet and hold hearings six (6) times each year, with one (1) meeting held during each calendar quarter, and may hold additional meetings and hearings upon motion of a commissioner, with a majority of the board voting affirmatively to hold a meeting or hearing, or at the request of a licensee when a majority of the board votes affirmatively to hold a meeting or hearing. A motion to hold a meeting or hearing, or a licensee's request to hold a meeting or hearing, shall be in writing and delivered to the commission at its office by certified mail, return receipt requested. The executive director shall provide to the board chairman written notice of the motion or request to hold a meeting or hearing and shall provide copies of such notice to each commissioner by regular mail. Commissioners voting on a motion or request for a meeting or hearing shall transmit their vote to the board chairman in writing, by any reasonable means such as by facsimile or electronic mail, and the vote tally and resulting decision shall be transmitted to the movant or requesting licensee, and to the executive director, in writing, by the chairman.*

(b) When the board votes to hold a meeting or hearing, the hearing shall be scheduled not more than thirty (30) days after the date the decision to hold the meeting or hearing is delivered to the executive director. The executive director shall provide written notice of the date, location and agenda of each meeting or hearing to all interested parties by certified mail and additionally shall publish notice to the public of any meeting or hearing in the locale where the meeting or hearing will be held. Board meetings and hearings may be held in Frankfort or at any location deemed suitable by the chairman, in consideration of the subject of the meeting or hearing and the location of any licensees having requested a meeting or hearing. At least three (3) of the six (6) meetings or hearings required by this subsection, including at least one (1) quarterly meeting, shall be held regionally in suitable locations around the Commonwealth.

(c) Board meetings and hearings shall conform to the requirements of KRS Chapter 61 regarding open meetings, and the executive director shall compile and retain the record established at a meeting or hearing. A majority of the board shall constitute a quorum for conducting board business at meetings and hearings~~[Initial appointments to the commission shall be for staggered terms as follows: one (1) member for a term of one (1) year; two (2) members for a term of two (2) years; two (2) members for a term of three (3) years; and two (2) members for a term of four (4) years. Thereafter, each member shall be appointed for a term of four (4) years. No member from the public at large shall be appointed in the same year. Vacancies shall be filled in the same manner as the~~

~~original appointment for the unexpired portion of the term. No member of the commission may serve more than two (2) full terms~~].

(3) ***In establishing standards for the regulation and conduct of charitable gaming in accordance with this chapter, the board shall consider the following factors:***

(a) Legally authorized gaming activities and practices in states in close proximity to Kentucky and the effect those activities and practices have on the ability of Kentucky licensed charitable organizations to conduct gaming profitably;

(b) The number of licensed charitable organizations to be affected by proposed standards, the size, structure, membership, and charitable functions of these organizations and the projected effect that proposed standards will have on the ability of these organizations to conduct charitable gaming activities profitably;

(c) The amounts of charitable gaming gross receipts, adjusted gross receipts, and net receipts derived, and prizes and charitable gaming expenses paid, by charitable organizations to be affected by proposed standards;

(d) The number of charitable gaming facilities to be affected by proposed standards and the characteristics of these facilities, including:

1. The location, size, capacity and amenities of facilities to be affected;

2. The geographic areas from which these facilities draw patronage, whether these areas are located within or outside the Commonwealth;

3. The number of organizations conducting bingo sessions, the number of bingo sessions conducted and the attendance at these facilities;

4. The gross, adjusted gross and net receipts derived by licensed organizations conducting bingo sessions or other charitable gaming activities in these facilities; and

(e) Any other relevant factors brought to the attention of the board, executive director or commission staff[~~The Charitable Gaming Advisory Commission shall provide ongoing advice and input to the department and to the General Assembly but shall not establish policy or become directly involved in the licensing and regulation of charitable gaming by the department.~~

~~(4) The commission shall meet quarterly or as otherwise directed by the department. Five (5) members shall constitute a quorum for conducting business. The commission shall annually elect a chairman from its membership, and no person elected chairman shall serve more than two (2) consecutive terms of one (1) year each. Members shall receive no compensation for serving on the commission, but shall be reimbursed for travel expenses for attending meetings and performing other official functions, consistent with state reimbursement policy for state employees~~].

Section 7. KRS 238.525 is amended to read as follows:

(1) Licenses shall be issued by the ***commission***[~~department~~] on an annual[~~ or biennial~~] basis, except as otherwise permitted in KRS 238.530 and 238.545. A license term may be determined by the ***commission***[~~department~~] in any manner it deems appropriate to facilitate efficient licensing. The ***commission***[~~department~~] shall charge a renewal fee not to exceed the maximum amounts established in KRS 238.530, 238.535, and 238.555.

(2) The ***commission***[~~department~~] may issue a temporary license to an applicant who has met the requirements for a license. A temporary license shall be valid from the date of issuance until the regular license is issued or for a period of sixty (60) days, whichever is shorter. A temporary license shall not be renewed, except for good cause and shall not exceed a total of nine (9) months in length.

(3) An applicant for any license to be issued under KRS 238.530 and 238.555 shall be subjected to a state and national criminal history background check by the ***commission***[~~department~~], with the assistance of the Kentucky State Police and the Federal Bureau of Investigation. An applicant for any license to be issued under KRS 238.535 shall be subjected to a state criminal history background check and may, if deemed reasonably necessary, be subjected to a national criminal history background check by the ***commission***[~~department~~] with the assistance of the Kentucky State Police and the Federal Bureau of Investigation. The criminal history background check shall apply to the chief executive officer and the chief financial officer or director of an applicant; any employee or member of an applicant who has been designated as chairperson of the charitable gaming activity; the applicant itself; and any individual with a ten percent (10%) or more financial interest in the applicant. The ***commission***[~~department~~] shall require the fingerprinting of all applicants for licensure under KRS 238.530 and 238.555 and may require, if deemed reasonably necessary, the fingerprints of all applicants for licensure under KRS 238.535, who are natural persons in connection with the national criminal history background check to assure the identity of the applicant or applicants. The ***commission***[~~department~~] may charge a reasonable fee not to exceed the actual cost of fingerprinting and records searching.

(4) No applicant shall be licensed and no license holder shall be able to maintain a license if an individual associated with the applicant or license holder in a capacity listed in subsection (3) of this section or the applicant or license holder itself has been convicted of a felony, gambling offense, criminal fraud, forgery, theft, falsifying business records, violation of KRS 238.995***(1), (2), (3), (4) and*** (7), or any two (2) misdemeanor crimes in federal court or the courts of any state, the District of Columbia, or any territory, consistent with the provisions of KRS Chapter 335B within ten (10) years preceding the

application for licensure.

(5) No applicant shall be licensed unless all applicants required to be fingerprinted under the provision of subsection (3) of this section have been fingerprinted. The Kentucky State Police may submit fingerprints of any applicant to the Federal Bureau of Investigation for the national criminal history background check. The ***commission***[~~department~~] may by administrative regulation impose additional qualifications to meet the requirements of Pub. L. 92-544.

(6) If a change occurs in any information submitted during the license application process, the applicant or licensee shall notify the ***commission***[~~department~~] in writing within thirty (30) days of the date the change occurred.

Section 8. KRS 238.530 is amended to read as follows:

(1) No person shall sell, offer to sell, rent, lease, or otherwise furnish charitable gaming supplies or equipment unless the person is licensed by the ***commission***[~~department~~] as a distributor***, except that a charitable gaming facility may lease bingo display boards, designators, receptacles or other selection devices, excluding electronic, computer or other technologic aid, to a licensed charitable organization conducting bingo sessions at a facility***. The ***commission***[~~department~~] shall charge a license fee not to exceed one thousand dollars ($1,000).

(2) No person shall sell, offer to sell, rent, lease, or otherwise furnish charitable gaming supplies and equipment unless the person is licensed by the ***commission***[~~department~~] as a manufacturer. The ***commission***[~~department~~] shall charge a license fee not to exceed one thousand dollars ($1,000).

(3) No person who is licensed as a charitable organization, and no owner, officer, employee, or member of the immediate family of an owner, officer, or employee of a licensed charitable gaming facility shall be eligible for licensure as a distributor or manufacturer. No affiliate of an owner, officer, or employee, or member of the immediate family of an owner, officer, or employee of a licensed charitable gaming facility shall be licensed as a distributor or manufacturer. No person who is a licensed wholesaler or distributor of alcoholic beverages shall be licensed as a distributor or manufacturer. No person who is licensed as a distributor shall be licensed as a manufacturer, and no person licensed as a manufacturer shall be licensed as a distributor.

(4) An applicant for a license as a manufacturer or distributor shall apply for license on forms provided by the ***commission***[~~department~~] and shall submit as part of the application process the following:

- (a) The full name, address, date of birth, and Social Security number ***or federal tax identification number*** of the applicant;
- (b) If the applicant is a corporation or other business entity, the names, addresses, dates of birth, and Social Security numbers of all officers and management personnel;
- (c) The name, address, date of birth, and Social Security number of any individual who has ten percent (10%) or more financial interest in the applicant organization;
- (d) Federal employer tax number;
- (e) A sworn statement by the applicant or the appropriate officer that all information provided is true and correct and that the applicant agrees to comply with the applicable provisions of this chapter and all applicable administrative regulations promulgated thereunder;
- (f) The name, address, and telephone number of a registered agent within the Commonwealth of Kentucky, if the applicant is not a resident; and
- (g) Any other information the ***commission***[~~department~~] deems appropriate.

(5) ***For the purpose of facilitating accurate, secure, electronic accounting, reporting and recordkeeping, each licensed manufacturer shall print or affix to all items of charitable gaming supplies and equipment a unique identification serial number in both human readable and bar-code format. The commission may promulgate administrative regulations to address the content and format of identification serial numbers and bar-codes for specific types of charitable gaming supplies and equipment.***

(6) Each licensed manufacturer and distributor shall maintain a complete set of records as may be required by the ***commission***[~~department~~] to document all activities related to the sale, rental, lease, or furnishing of charitable gaming supplies and equipment in the Commonwealth of Kentucky. These records shall be ***maintained in computerized or electronic format and shall be*** available for inspection by the ***commission***[~~department~~] at reasonable times, and all records shall be maintained for a minimum of three (3) years. The ***commission***[~~department~~] may require a licensed manufacturer and distributor to report on its activity, with the content and frequency of these reports to be prescribed by administrative regulation promulgated by the ***commission***[~~department~~]. ***Intentionally making materially false or misleading statements or providing materially false or misleading information in reports required pursuant to this section, or omitting to make a true entry in such reports for the purpose of concealing the truth of the information required, shall constitute grounds for denial of a license application or revocation of an existing license. Failure to maintain adequate records required under this section, or falsifying records required under this section, shall constitute grounds for disciplinary action pursuant to subsection (3) of Section 16 of this Act, including the levying of an administrative fine and denial, suspension or revocation of a license.***

(7)[~~(6)~~] A distributor who does not receive payment in accordance with the terms of its sales or lease agreement from a licensed charitable organization within thirty (30) days of the delivery of charitable gaming supplies and equipment shall notify the ***commission***[~~department~~] of the delinquency in writing in a form and manner prescribed by the department. A manufacturer who does not receive payment in full from a distributor within sixty (60) days of the delivery of charitable gaming supplies and equipment shall notify the ***commission***[~~department~~] of the delinquency in writing in a form and manner prescribed by the ***commission***[~~department~~].

(8)[~~(7)~~] A licensed manufacturer shall not sell charitable gaming supplies and equipment to any person not licensed as a distributor in the Commonwealth of Kentucky.

(9)[~~(8)~~] A licensed distributor shall not sell charitable gaming supplies and equipment to any person not licensed as a distributor or a charitable organization in the Commonwealth of Kentucky, unless the organization is exempted from licensure under the provisions of this chapter. ***A licensed distributor may sell, lease or furnish bingo display boards, designators, receptacles or other selection devices, excluding electronic, computer or other technologic aids, to a charitable gaming facility if it notifies the commission, in writing, of its sale, lease or furnishing of such equipment at the time of the transaction.***

(10)[~~(9)~~] A licensed distributor shall not purchase charitable gaming supplies and equipment from any person not licensed as a manufacturer or distributor in the Commonwealth of Kentucky.

(11)[~~(10)~~] No officer, owner, employee, or contractee of a licensed distributor or licensed manufacturer or their affiliates and no member of the immediate family of an owner, officer, employee, or contractee of a licensed distributor or licensed manufacturer or their affiliates, shall, with respect to a licensed charitable organization:

(a) Manage or otherwise be involved in the conduct of charitable gaming;

(b) Provide bookkeeping or other accounting services related to the conduct of charitable gaming;

(c) Handle any moneys generated in the conduct of charitable gaming;

(d) Advise a licensed charitable organization on the expenditure of net receipts;

(e) Provide transportation services in any manner to patrons of a charitable gaming activity;

(f) Provide advertisement or marketing services in any manner to a licensed charitable organization ***without prior approval from the commission***;

(g) Provide, coordinate, or solicit the services of personnel or volunteers in any manner;

(h) Provide training or consulting on the conduct of charitable gaming, except in connection with the use of its own equipment or supplies;

(i) Store its charitable gaming equipment or supplies in or on the premises of a licensed charitable gaming facility***, with the exception of card-minding devices and related systems, bingo display boards, designators, receptacles or other selection devices, and electronic, computer or other technologic aids used in the conduct of charitable gaming, which may be stored on the premises with prior commission approval***;[~~ or~~]

(j) Donate or give any prize to be awarded in the conduct of charitable gaming***; or***

(k) Serve as a director or officer of a licensed charitable organization.

(12) Intentionally making a materially false or misleading statement or providing materially false or misleading information on a license application submitted pursuant to this section shall constitute grounds for denial of the application or revocation of an existing license.

Section 9. KRS 238.535 is amended to read as follows:

(1) Any charitable organization conducting charitable gaming in the Commonwealth of Kentucky shall be licensed by the ***commission***[~~department~~]. A charitable organization qualifying under subsection (8) of this section but not exceeding the limitations provided in this subsection shall be exempt from the licensure requirements when conducting the following charitable gaming activities:

(a) Bingo in which the gross receipts do not exceed a total of twenty-five thousand dollars ($25,000) per year;

(b) A raffle or raffles for which the gross receipts do not exceed twenty-five thousand dollars ($25,000) per year; and

(c) A charity fundraising event or events that do not involve special limited charitable games and the gross gaming receipts for which do not exceed twenty-five thousand dollars ($25,000) per year.

However, at no time shall a charitable organization's total limitations under this subsection exceed twenty-five thousand dollars ($25,000).

(2) Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall notify the ***commission***[~~department~~] in writing, on a simple form issued by the ***commission***[~~department~~], of its intent to engage in exempt charitable gaming and the address at which the gaming is to occur. Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall comply with all other provisions of this chapter relating to the conduct of charitable gaming, except:

(a) Payment of the fee imposed under the provisions of KRS 238.570; and

(b) The quarterly reporting requirements imposed under the provisions of KRS 238.550(5), unless the exempt charitable organization obtains a retroactive license pursuant to subsection (5) of this section.

Before the last day of each year, a charitable organization exempt from licensure under the provisions of subsection (1) of this section shall file with the ***commission***[~~department~~] a financial report detailing the type of gaming activity in which it engaged during that year, the total gross receipts derived from gaming, the amount of charitable gaming expenses paid, the amount of net receipts derived, and the disposition of those net receipts. This report shall be filed on a form issued by the ***commission***[~~department~~]. Upon receipt of the yearly financial report, the ***commission***[~~department~~] shall notify the charitable organization submitting it that its exemption is renewed for the next year. If the ***commission***[~~department~~] determines that information appearing on the financial report renders the charitable organization ineligible to possess an exemption, the ***commission***[~~department~~] shall revoke the exemption. The organization may request an appeal of this revocation pursuant to KRS 238.565. If an exemption is revoked because an organization has exceeded the limit imposed in subsection (1) of this section, the organization shall apply for a retroactive license in accordance with subsection (3) of this section.

(3) If an organization exceeds the limit imposed by any subsection of this section it shall:

(a) Report the amount to the ***commission***[~~department~~]; and

(b) Apply for a retroactive charitable gaming license.

(4) Upon receipt of a report and application for a retroactive charitable gaming license, the ***commission***[~~department~~] shall investigate to determine if the organization is otherwise qualified to hold the license.

(5) If the ***commission***[~~department~~] determines that the applicant is qualified, it shall issue a charitable gaming license retroactive to the date on which the exemption limit was exceeded. The retroactive charitable gaming license shall be issued in the same manner as regular charitable gaming licenses.

(6) If the ***commission***[~~department~~] determines that the applicant is not qualified it shall deny the license and take enforcement action, if appropriate.

(7) Once a retroactive or regular gaming license is issued to an organization, that organization shall not be eligible for exempt status in the future and shall maintain a charitable gaming license if it intends to continue charitable gaming activities, unless the charitable organization has not exceeded the exemption limitations of subsection (1) of this section for a period of ***four (4) consecutive calendar quarters***[~~two (2) years~~] prior to its exemption request.

(8) In order to qualify for licensure, a charitable organization shall:

(a) 1. Possess a tax exempt status under 26 U.S.C. secs. 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19), or be covered under a group ruling issued by the Internal Revenue Service under authority of those sections; or

2. Be organized within the Commonwealth of Kentucky as a common school as defined in KRS 158.030, as an institution of higher education as defined in KRS 164A.305, or as a state college or university as provided for in KRS 164.290;

(b) ***Be***[~~Have been~~] established and continuously operating within the Commonwealth of Kentucky for charitable purposes, other than the conduct of charitable gaming, ***when applying for a license and*** for a period of three (3) years prior to application for licensure;

(c) ***Be***[~~Have been~~] actively engaged in charitable activities ***when applying for a license and*** during the three (3) years immediately prior to application for licensure and be able to demonstrate, to the satisfaction of the ***commission***[~~department~~], reasonable progress in accomplishing its charitable purposes during this period. ***If an applicant applying for initial licensure after the effective date of this Act claims tax-exemption as an organization described in paragraph (a) of this subsection, but has not been recognized by the Internal Revenue Service as tax-exempt for at least three (3) years immediately preceding the application, the three (3) year period shall commence from the date the Internal Revenue Service issues a written determination of tax-exempt status. If an applicant is covered under a group ruling, the three (3) year period shall commence from the date the organization possessing the group ruling first identifies the applicant as among the organizations covered under that ruling. The commission may require written confirmation of the group ruling coverage from the organization through which an applicant claims tax-exempt status.*** As used in this paragraph, "reasonable progress in accomplishing its charitable purposes" means the regular and uninterrupted conduct of activities within the Commonwealth or the expenditure of funds within the Commonwealth to accomplish relief of poverty, advancement of education, protection of health, relief from disease, relief from suffering or distress, protection of the environment, conservation of wildlife, advancement of civic, governmental, or municipal purposes, or advancement of those purposes delineated in KRS 238.505(3). In order to demonstrate reasonable progress in accomplishing its charitable purposes when applying to renew an existing license, a licensed charitable organization shall additionally provide to the ***commission***[~~department~~] a detailed accounting regarding its expenditure of charitable gaming net receipts for the purposes described in this paragraph; and

(d) ***Be established and continuously operating for charitable purposes from an office or place of business in the county in which charitable gaming is to be conducted and*** have maintained ***that***[~~an~~] office or place of business[~~, other than for the conduct of charitable gaming,~~] for one (1) year ***prior to applying for a charitable gaming***

license[~~in the county in which charitable gaming is to be conducted~~]. The office or place of business shall be a separate and distinct address and location from that of any other licensee of the ***commission***[~~department~~]; except that up to three (3) licensed charitable organizations may have the same address if they legitimately share office space. For the conduct of a raffle, the county in which charitable gaming is to be conducted shall be the county in which the raffle drawing is to be conducted. However, a charitable organization that has established and maintained an office or place of business in the county for a period of at least one (1) year may hold a raffle drawing in a Kentucky county other than that in which the organization's office or place of business is located if the organization notifies the ***commission***[~~department~~] in writing of the organization's intent to change the drawing's location at least thirty (30) days before the drawing takes place. This written notification may be transmitted in any commercially reasonable means, authorized by the ***commission***[~~department~~], including facsimile and electronic mail. The notification shall set out the place and the county in which the drawing will take place. Approval by the ***commission***[~~department~~] shall be received prior to the conduct of the raffle drawing at the new location. Any charitable organization that was registered with the county clerk to conduct charitable gaming in a county on or before March 31, 1992, shall satisfy this requirement if it maintained a place of business or operation, other than for the conduct of charitable gaming, for one (1) year prior to application in a Kentucky county adjoining the county in which they were registered. Any licensed charitable organization that qualifies to conduct charitable gaming in an adjoining county under this paragraph, shall be permitted to conduct in its county of residence a charity fund raising event.

(9) In applying for a license, the information to be submitted shall include, but not be limited to, the following:

(a) The name and address of the charitable organization;

(b) The date of the charitable organization's establishment in the Commonwealth of Kentucky and the date of establishment in the county in which charitable gaming is to be conducted;

(c) A statement of the charitable purpose or purposes for which the organization was organized. If the charitable organization is incorporated, a copy of the articles of incorporation shall satisfy this requirement;

(d) A statement explaining the organizational structure and management of the organization. For incorporated entities, a copy of the organizations bylaws shall satisfy this requirement;

(e) A detailed accounting of the charitable activities in which the charitable organization has been engaged for the three (3) years preceding application for licensure;

(f) The names, addresses, dates of birth, and Social Security numbers of all officers of the organization***, and, if the organization is a corporation, the names of the current directors of the organization***;

(g) The names, addresses, dates of birth, and Social Security numbers of all employees and members of the charitable organization who will be involved in the management and supervision of charitable gaming. No fewer than two (2) employees or members of the charitable organization who are involved in the management and supervision of charitable gaming, along with the chief executive officer or the director of the applicant organization, shall be designated as chairpersons;

(h) The address of the location at which charitable gaming will be conducted and the name and address of the owner of the property, if it is owned by a person other than the charitable organization;

(i) A copy of the letter or other legal document issued by the Internal Revenue Service to grant tax-exempt status;

(j) A statement signed by the presiding or other responsible officer of the charitable organization attesting that the information submitted in the application is true and correct and that the organization agrees to comply with all applicable laws and administrative regulations regarding charitable gaming;

(k) An agreement that the charitable organization's records may be released by the federal Internal Revenue Service to the ***commission***[~~department~~];[~~ and~~]

(l) ***A statement that the corporation exists in good standing with the Kentucky Secretary of State, if the charitable organization is a corporation; and***

(m) Any other information the ***commission***[~~department~~] deems appropriate.

(10) An organization or a group of individuals that does not meet the licensing requirements of subsection (8) of this section may hold a raffle if the gross receipts do not exceed ***five***[~~one~~] hundred[~~ fifty~~] dollars ***($500)***[~~($150)~~] and all proceeds from the raffle are distributed to a charitable organization. The organization or group of individuals may hold up to three (3) raffles each year, and shall be exempt from complying with the notification, application, and reporting requirements of subsections (2) and (9) of this section.

(11) The ***commission***[~~department~~] may issue a license for a specified period of time, based on the type of charitable gaming involved and the desired duration of the activity.

(12) The ***commission***[~~department~~] shall charge a fee for each license issued and renewed, not to exceed three hundred dollars ($300). Specific fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulations and based on type of license, type of charitable gaming, actual or projected gross receipts, or other applicable factors, or combination of factors.

(13) ***Intentionally making a materially false or misleading statement or providing materially false or misleading information on a license application submitted pursuant to this section shall constitute grounds for denial of the application or revocation of an existing license***~~[(a) A licensed charitable organization may place its charitable gaming license in escrow if:~~

~~1. The licensee notifies the department in writing that it desires to place its license in escrow; and~~

~~2. The license is in good standing and the department has not initiated disciplinary action against the licensee.~~

~~(b) During the escrow period, the licensee shall not engage in charitable gaming, and the escrow period shall not be included in calculating the licensee's retention rate under KRS 238.536.~~

~~(c) A charitable organization may apply for reinstatement of its active license and the license shall be reinstated provided:~~

~~1. The charitable organization continues to qualify for licensure;~~

~~2. The charitable organization has not engaged in charitable gaming during the escrow period; and~~

~~3. The charitable organization pays a reinstatement fee established by the department]~~.

Section 10. KRS 238.536 is amended to read as follows:

(1) The net receipts from charitable gaming retained by a charitable organization for the previous calendar year, provided the charitable organization was licensed at the start of the calendar year, shall be equal to or greater than forty percent (40%) of the adjusted gross receipts of the charitable organization for the same period. A licensed charitable organization shall expend net receipts exclusively for purposes consistent with the charitable, religious, educational, literary, civic, fraternal, or patriotic functions or objectives for which the licensed charitable organization received and maintains federal tax-exempt status, or consistent with its status as a common school, an institution of higher education, or a state college or university. No net receipts shall inure to the ***private benefit***~~[benefits]~~ or financial gain of an individual. Any charitable organization which permits its license to expire or otherwise lapse shall still be subject to the retention requirement. The following fees and taxes shall be excluded from the calculation of the percentage retained, retroactive to calculations made for calendar year 1999:

(a) All fees paid to the ***commission***~~[department]~~ during the calendar year;

(b) Any sales or use taxes levied under KRS Chapter 139 on charitable gaming supplies and equipment that are paid by a licensed charitable organization during the calendar year; and

(c) Any federal excise taxes levied under 26 U.S.C. secs. 4401 and 4411 and paid by a licensed charitable organization during the calendar year.

(2) The following actions shall be imposed on a licensed charitable organization that fails to retain the requisite percentage of adjusted gross receipts required in subsection (1) of this section. The calculation of percentages shall be rounded to the nearest tenth of a percent:

(a) If the percentage retained is between thirty-five percent (35%) and thirty-nine and nine-tenths percent (39.9%), the licensee shall be placed on probation for a period of six (6) months and shall be required to submit to the ***commission***~~[department]~~ an acceptable financial plan detailing corrective actions to be taken by the licensee to achieve the forty percent (40%) threshold by the end of the calendar year in which the probation is imposed;

(b) If the percentage retained is between thirty percent (30%) and thirty-four and nine-tenths percent (34.9%), the licensee shall be placed on probation for a period of ***twelve (12) months***~~[one (1) year]~~ and shall be required to submit to the ***commission***~~[department]~~ a financial plan as described in paragraph (a) of this subsection. The ***commission***~~[department]~~ shall conduct a six (6) month review of the charitable gaming activities of a licensee placed on probation pursuant to this subsection to evaluate the licensee's compliance with its financial plan;

(c) If the percentage retained falls between twenty-nine and nine-tenths percent (29.9%) and twenty-five percent (25%), the licensee shall be placed on probation for a period of ***twelve (12) months***~~[one (1) year]~~, shall submit to the ***commission***~~[department]~~ an acceptable financial plan as described in paragraph (a) of this subsection, and shall participate in a mandatory training program designed by the ***commission***~~[department]~~. The ***commission***~~[department]~~ shall conduct a quarterly review of the licensee's activities to evaluate the licensee's compliance with its financial plan and its progress toward achievement of the forty percent (40%) threshold during the probationary period;

(d) If the percentage falls below twenty-five percent (25%) or if the licensee fails to attain the forty percent (40%) threshold for a second consecutive calendar year, the licensee shall have its license suspended for a period of one (1) year; and

(e) For purposes of paragraphs (a), (b), (c), and (d) of this subsection, periods of probation and suspension shall commence, unless appealed, from the date the ***commission***~~[department]~~ notifies the licensee of its failure to satisfy the retention requirement for the previous calendar year. If a probation or suspension is appealed, the action shall commence on the date final adjudication of the matter is complete.

(3) Any licensee that has had its license suspended under the provisions of subsection (2)(d) of this section shall be required to submit to the ***commission***~~[department]~~ an acceptable financial plan as described in subsection (2)(a) of this section, upon

applying for reinstatement of its license. As a condition of reinstatement, the licensee shall be on probation for a period of ***twelve (12) months, shall participate in a mandatory training program designed by the commission,***[~~one (1) year~~] and shall be subject to quarterly review by the ***commission***[~~department~~] in accordance with subsection (2)(c) of this section.

(4) Any licensee that has had its license revoked, has had its renewal application denied, or has had action initiated to revoke, suspend, or deny its license for failure to meet the forty percent (40%) retention threshold prior to July 14, 2000, may petition the ***commission***[~~department~~] for reconsideration of its action or proposed action. Upon petition for reconsideration, the ***commission***[~~department~~] shall apply the standards contained in subsection (2) of this section and shall adjust the license status of the petitioner accordingly. The ***commission***[~~department~~] shall give credit for the amount of time a license has been ***suspended***[~~revoked~~] in assessing penalties under subsection (2) of this section not to exceed the amount of time imposed under the new penalty.

(5) If the commission determines that a licensee has engaged in conduct designed to inaccurately state the amounts of its gross receipts, prizes paid, adjusted gross receipts, authorized charitable gaming expenses or exclusions from expenses, or net receipts for the purpose of overstating its retention percentage and thereby avoiding sanctions imposed by this section, the commission may revoke the license. The stay provided in subsection (4) of Section 17 of this Act shall not apply to administrative actions to revoke a license initiated pursuant to this subsection.

Section 11. KRS 238.540 is amended to read as follows:

(1) Except as provided in KRS 238.535(8)(d), charitable gaming shall be conducted by a licensed charitable organization at the location, date, and time which shall be stated on the license. A license holder shall notify the ***commission***[~~department~~] at least thirty (30) days in advance of its intent to change its location, date, or time and approval by the ***commission***[~~department~~] shall be received by the licensee prior to the conduct of charitable gaming at a new location.

(2) All premises or facilities on which or in which charitable gaming is conducted shall meet all applicable federal, state, and local code requirements relating to life, safety, and health.

(3) A license to conduct charitable gaming shall be prominently displayed on or in the premises where charitable gaming is conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the ***commission***[~~department~~], law enforcement officials, and other interested officials.

(4) At least one (1) chairperson who is listed on the application for licensure shall be ***present*** at each ***bingo session or charity fundraising event***[~~charitable gaming activity~~] conducted by the charitable organization and shall be responsible for the administration and conduct of the charitable gaming activity. No person shall serve as chairperson for more than one (1) charitable organization. The chairperson shall be readily identifiable as the chairperson and shall be present on the premises continuously during the charitable gaming activity. Charitable gaming shall be conducted and administered solely by officers, members, and bona fide employees of the licensed charitable organization. Volunteer personnel, who may or may not be members of the licensed charitable organization, may be utilized if each volunteer is readily identifiable as a volunteer. No person engaged in the conduct and administration of charitable gaming shall receive any compensation for services related to the charitable gaming activities, including tipping. No net receipts derived from charitable gaming shall inure to the private benefit or financial gain of any individual. Any effort or attempt to disguise any other type of compensation or private inurement shall be considered an unauthorized diversion of funds and shall be actionable under KRS 238.995.

(5) No licensed charitable organization shall contract with, or otherwise utilize the services of, any management company, service company, or consultant in managing or conducting any aspect of charitable gaming.

(6) A licensed charitable organization shall not purchase or lease charitable gaming supplies and equipment from any person not licensed as a distributor in the Commonwealth of Kentucky***, except that a licensed charitable organization may lease bingo display boards, designators, receptacles or other selection devices, excluding electronic, computer or other technologic aids, from a charitable gaming facility at which the organization conducts bingo sessions***.

(7) A licensed charitable organization shall not accept any merchandise prizes donated by any owner, officer, employee, or contractee of a licensed manufacturer, distributor, charitable gaming facility, or any of their affiliates, or any member of their immediate families.

(8) Any advertisement of charitable gaming, regardless of the medium used, shall contain the name of the charitable organization conducting the charitable gaming and its license number. An advertisement for a bingo session or sessions shall not advertise a bingo prize in excess of the ***limitations***[~~limitation of five thousand dollars ($5,000) per twenty-four (24) hour period~~] set forth in KRS 238.545[~~(1)~~].

Section 12. KRS 238.545 is amended to read as follows:

(1) A licensed charitable organization shall be limited by the following:

(a) In the conduct of bingo, to one (1) session per day, two (2) sessions per week, for a period not to exceed five (5) consecutive hours in any day and not to exceed ten (10) total hours per week. No licensed charitable organization shall conduct bingo at more than one (1) location during the same twenty-four (24) hour period.

(b) ***The commission shall establish prize payouts for bingo in accordance with the following requirements:***

1. A licensed charitable organization shall not award bingo prizes that have a fair market value in excess

of seven thousand five hundred dollars ($7,500) during any one (1) bingo session. This limitation shall include the value of cash door prizes but shall not include the fair market value of noncash door prizes. A single noncash door prize may have a fair market value not in excess of one thousand dollars ($1,000), and a licensed charitable organization may award noncash door prizes having an aggregate fair market value not in excess of one thousand dollars ($1,000) per session. The commission shall promulgate an administrative regulation establishing bingo prize amounts consistent with this subparagraph;

2. The per-session bingo prize limitation shall not include the fair market value of any carryover prize awarded at a bingo session by a licensed charitable organization conducting a progressive bingo game. For the purposes of this subparagraph, a carryover prize in a progressive bingo game is a prize awarded to a winner or winners of a bingo game where the game and the prize may carry over or progress from one (1) bingo session to others. No prize awarded to a winner or winners of a single progressive bingo game may exceed ten thousand dollars ($10,000) in fair market value. A licensed charitable organization may conduct only one (1) progressive bingo game at any bingo session, excluding a combined bingo game that may award a carryover prize as authorized under paragraph (d) of this subsection. The commission shall promulgate an administrative regulation establishing progressive bingo prize amounts consistent with this subparagraph;

(c) The commission may approve the use of electronic, computer or other technologic aids in the play of bingo and shall promulgate administrative regulations regarding the use and control of technologic aids. No licensed charitable organization may utilize any electronic, computer or other technologic aid in the conduct of bingo before obtaining commission approval to do so. No licensed manufacturer or distributor may furnish any technologic aid in Kentucky without first obtaining commission approval to do so;

(d) The commission may conduct a combined bingo game and may grant approval for multiple licensed charitable organizations to participate in a combined bingo game. A combined bingo game may include the use of electronic, computer or other technologic aids and may also be conducted as a progressive bingo game. For purposes of this paragraph, a combined bingo game is a bingo game in which players playing bingo at multiple participating locations compete against each other for prizes. No prize awarded in a combined bingo game may exceed fifty thousand dollars ($50,000). Prizes awarded in a combined bingo game shall not be included in the per-session prize limitation set forth in paragraph (b) of this subsection. Gross receipts derived from the conduct of a combined bingo game shall not be subject to the fee required under subsection (1) of Section 18 of this Act. The commission shall promulgate an administrative regulation concerning the conduct of combined bingo games authorized under this paragraph;[~~No licensed charitable organization shall award prizes for bingo that exceed five thousand dollars ($5,000) in fair market value per twenty four (24) hour period, including the value of door prizes.~~]

(e) No person under the age of eighteen (18) shall be permitted to purchase bingo supplies or play bingo. A charitable organization may permit persons under age eighteen (18) to play bingo for noncash prizes if they are accompanied by a parent or legal guardian and only if the value of any noncash prize awarded does not exceed *one hundred*[~~ten~~] dollars *($100)*[~~($10)~~]; *and*

(f) A licensed charitable organization may provide card-minding devices for use by players of bingo games. If a licensed charitable organization offers card-minding devices for use by players, the devices shall be capable of being used in conjunction with bingo cards or paper sheets at all times. The *commission*[~~department~~] shall have broad authority to define and regulate the use of card-minding devices and shall promulgate an administrative regulation concerning use and control of them*.*[~~;~~]

(2) *(a)*[~~(c)~~]Charity game tickets shall be sold only at the address of the location designated on the license to conduct charitable gaming*, except as otherwise provided in this subsection*;

(b)[~~(d)~~] Charity game tickets may be sold, with prior approval of the *commission*[~~department~~]:

1. At any authorized special charity fundraising event conducted by a licensed charitable organization at any off-site location; or

2. By a licensed charitable organization possessing a special limited charitable gaming license at any off-site location; *or*[~~and~~]

3. By a licensed charitable organization at its office or place of business in the county where charitable gaming is to be conducted, if different from the location at which the organization conducts bingo sessions or other charitable gaming activities; and

(c)[~~(e)~~]An automated charity game ticket dispenser may be utilized by a licensed charitable organization, with the prior approval of the *commission*[~~department, only~~] at the address of the location designated on the license to conduct charitable gaming, *or at the organization's office or place of business in the county where charitable gaming is to be conducted, if different from the location at which the organization conducts bingo sessions or other charitable gaming activities*[~~and only during bingo sessions~~]. The *commission*[~~department~~] shall promulgate administrative regulations regulating the use and control of approved automated charity game ticket dispensers*;*[~~.~~]

(d) ~~[(2) No prize for an individual charity game ticket shall exceed five hundred ninety-nine dollars ($599) in value, not including the value of cumulative or carryover prizes awarded in seal card games. Cumulative or carryover prizes in seal card games shall not exceed two thousand four hundred dollars ($2,400).]~~Information concerning rules of ***play for charity game tickets***~~[the particular game]~~ and ***all*** prizes that are to be awarded in excess of fifty dollars ($50) in each separate package***,*** or series of packages with the same serial number***,*** and all rules governing the handling of cumulative or carryover prizes in seal card games shall be posted prominently in an area where charity game tickets are sold. A legible poster that lists prizes to be awarded, and on which prizes actually awarded are posted at the completion of the sale of each separate package shall satisfy this requirement. Any unclaimed money or prize shall return to the charitable organization. No charity game ticket shall be sold in the Commonwealth of Kentucky that does not conform to the standards for opacity, randomization, minimum information, winner protection, color, and cutting established by the ***commission***~~[department]~~. No person under the age of eighteen (18) shall be permitted to purchase, or open in any manner, a charity game ticket***; and***

(e) The commission may approve the use of electronic, computer or other technologic aid in the play of charity game tickets and shall promulgate administrative regulations regarding the use and control of technologic aids. No licensed charitable organization may utilize any electronic, computer or other technologic aid in the play of charity game tickets before obtaining commission approval to do so. No licensed manufacturer or distributor may furnish any technologic aid in Kentucky without first obtaining commission approval to do so.

(3) Tickets for a raffle shall be sold separately, and each ticket shall constitute a separate and equal chance to win. All raffle tickets shall be sold for the price stated on the ticket, and no person shall be required to purchase more than one (1) ticket or to pay for anything other than a ticket to enter a raffle. Raffle tickets shall have a unique identifier for the ticket holder. Winners shall be drawn at random at a date, time, and place announced in advance or printed on the ticket. All prizes for a raffle shall be identified in advance of the drawing and all prizes identified shall be awarded.

(4) With respect to charity fundraising events, a licensed charitable organization shall be limited as follows:

(a) No licensed charitable organization shall conduct a charity fundraising event or a special limited charity fundraising event unless they have a license for the respective event issued by the ***commission***~~[department]~~;

(b) No special license shall be required for any wheel game, such as a cake wheel, that awards only noncash prizes the value of which does not exceed one hundred dollars ($100);

(c) The ***commission***~~[department]~~ may grant approval for a licensed charitable organization to play bingo games at a charity fundraising event. Cash prizes for bingo games played during a charity fundraising event may not exceed ***seven***~~[five]~~ thousand ***five hundred*** dollars ***($7,500)***~~[($5,000)]~~ for the entire event. No person under the age of eighteen (18) shall be permitted to play bingo at a charity fundraising event unless accompanied by a parent or legal guardian***. Bingo at a charity fundraising event shall not include the play of a progressive bingo game as defined by subparagraph 2. of subsection (1)(b) of this section, or a combined bingo game as defined by paragraph (d) of subsection (1) of this section***;

(d) The ***commission***~~[department]~~ may grant approval for a licensed charitable organization to play special limited charitable games at a charity fundraising event authorized under this section. The ***commission***~~[department]~~ shall not grant approval for the playing of special limited charitable games under the provisions of a charity fundraising event license unless the proposed event meets the definition of a charity fundraising event held for community, social, or entertainment purposes apart from charitable gaming in accordance with KRS 238.505(8); and

(e) Except for state, county, city fairs, and special limited charity fundraising events, a charity fundraising event license issued under this section shall not exceed seventy-two (72) consecutive hours. A licensed charitable organization shall not be eligible for more than four (4) total charity fundraising event licenses per year, including two (2) special limited charity fundraising event licenses. No person under eighteen (18) years of age shall be allowed to play or conduct any special limited charitable game. The ***commission***~~[department]~~ shall have broad authority to regulate the conduct of special limited charity fundraising events in accordance with the provisions of KRS 238.547.

(5) Presentation of false, fraudulent, or altered identification by a minor shall be an affirmative defense in any disciplinary action or prosecution that may result from a violation of age restrictions contained in this section, if the appearance and character of the minor were such that his or her age could not be reasonably ascertained by other means.

Section 13. KRS 238.547 is amended to read as follows:

(1) A licensed charitable organization shall be limited to two (2) special limited charity fundraising event licenses per year, and a special limited charity fundraising event shall be limited to ***two (2) gatherings not to exceed six (6) hours during a twenty-four (24) hour period, for a total of twelve (12) hours for each event***~~[one (1) session not to exceed six (6) hours]~~. A special limited charity fundraising event shall be conducted only between the hours of 12 noon and 1 a.m.

(2) A special limited charity fundraising event may be held:

(a) On or in the premises of a licensed charitable organization;

(b) In a licensed charitable gaming facility, subject to restrictions contained in KRS 238.555(7); or

(c) At an unlicensed facility under the following conditions:

1. An unlicensed facility shall host no more than one (1) special limited charity fundraising event per year;
2. The facility shall be closed to the general public during the conduct of a special limited charity fundraising event or the event shall be held in a separate room or area not accessible to the general public;
3. Equipment used in the conduct of a special limited charity fundraising event shall be removed from the premises within two (2) working days after the event; and
4. The unlicensed facility shall be subject to requirements stipulated in KRS 238.555(3).

(3) No cash shall be used in playing special limited charity games at a special limited charity fundraising event. Games shall be played with chips, scrip, or imitation money which shall be purchased only through a central bank or cashier under the authority of the chairperson designated by the licensed charitable organization conducting the special limited charity fundraising event. No chips, scrip, or imitation money shall be sold at a gaming table or by a dealer.

(4) Chips, scrip, or imitation money may be redeemed for cash or prizes. Prizes to be offered and their fair market values shall be displayed or listed in a conspicuous location within the gaming area. Prizes shall be redeemed directly or through an auction process within twenty-four (24) hours after the conclusion of the event.

Section 14. KRS 238.550 is amended to read as follows:

(1) All adjusted gross receipts from charitable gaming shall be handled only by chairpersons, officers, or employees of the licensed charitable organization.

(2) Within two (2) business days after the completion of a charitable gaming event or session, all gross receipts and adjusted gross receipts shall be deposited into one checking account devoted exclusively to charitable gaming. This checking account shall be designated the "charitable gaming account," and the licensed charitable organization shall maintain its account at a financial institution located in the Commonwealth of Kentucky. No other funds may be deposited or transferred into the charitable gaming account.

(3) All payments for charitable gaming expenses, payments made for prizes purchased, and any charitable donations from charitable gaming receipts shall be made from the charitable gaming account and the payments or donations shall be made only by bona fide officers of the organization by checks having preprinted consecutive numbers and made payable to specific persons or organizations. No check drawn on the charitable gaming account may be made payable to "cash," or "bearer," except that a licensed charitable organization may withdraw start-up funds for a charitable gaming event or session from the charitable gaming account by check made payable to "cash" or "bearer," ***or to the financial institution at which the account is located,*** if these start-up funds are redeposited into the charitable gaming account together with all adjusted gross receipts derived from the particular event or session. Checks shall be imprinted with the words "charitable gaming account" and shall contain the organization's license number on the face of each check. Payments for charitable gaming expenses, prizes purchased, and charitable donations may be made by electronic funds transfer if the payments are made to specific persons or organizations. The ***commission***[~~department~~] may by administrative regulation adopt alternative reporting requirements for charitable gaming of limited scope or duration, if these requirements are sufficient to ensure accountability for all moneys handled.

(4) A licensed charitable organization shall expend net receipts exclusively for purposes consistent with the charitable, religious, educational, literary, civic, fraternal, or patriotic functions or objectives for which the licensed charitable organization received and maintains federal tax-exempt status, or consistent with its status as a common school, an institution of higher education, or a state college or university. No net receipts shall inure to the private benefit or financial gain of any individual.

(5) ***(a)*** Accurate records and books shall be maintained by each organization exempt from licensure under KRS 238.535(1) and each licensed charitable organization for a period of three (3) years. ***Records and books shall be maintained in accordance with generally accepted standards of accounting. Each organization shall maintain original source records in paper format with respect to each charitable gaming activity conducted. Records required under this section shall include, but not be limited to, daily bingo session records, invoices of purchases of charitable gaming supplies and equipment, invoices of noncash prizes purchased, periodic statements from any financial institution where a charitable gaming account is maintained, charitable gaming account deposit records, and records of fund transfers from a charitable gaming account to other accounts maintained by the licensed charitable organization. To facilitate accurate and secure accounting and recordkeeping, licensed charitable organizations shall be required to maintain records in computerized or electronic format within four (4) years of the effective date of this Act, in addition to maintaining original source records in paper format. The commission may promulgate an administrative regulation establishing a phase-in schedule for achieving compliance with this requirement. Commission***[~~Department~~] staff shall have access to these records at reasonable times.

(b) Licensed charitable organizations and exempt organizations shall maintain their charitable gaming records at their offices or places of business within the Commonwealth of Kentucky as identified in their license applications or applications for exempt status.

(c) All licensed charitable organizations shall be required to submit reports to the ***commission***[~~division~~] at least quarterly. An exempt organization shall submit a yearly financial report in accordance with KRS 238.535(2), and failure to file this report shall constitute grounds for revocation of the organization's exempt status. Failure by a licensed charitable organization to file reports required under this chapter shall constitute grounds for revocation of the organization's license or denial of the organization's application to renew its license in accordance with KRS 238.560(3). Reports filed by a licensed charitable organization shall include, but shall not be limited to, the following information:

1.[~~(a)~~] All gross receipts received from charitable gaming for the reporting period, classified by type of gaming activity;

2.[~~(b)~~] The amounts or values of all prizes paid out during the reporting period, including a listing of all prizes donated having a fair market value in excess of fifty dollars ($50), the names of donors, and the fair market value of the donated prizes;

3.[~~(c)~~] The names and addresses of all persons who are winners of prizes having a fair market value of six hundred dollars ($600) or more;

4.[~~(d)~~] All expenses paid and the names and addresses of all persons to whom expenses were paid;

5.[~~(e)~~] All net receipts retained and the names and addresses of all charitable endeavors that received money from the net receipts; and

6.[~~(f)~~] Any other information the ***commission***[~~department~~] deems appropriate.

(d) Intentionally making a materially false or misleading statement, omitting to make a true entry in such records for the purpose of concealing the truth of the information required, or providing materially false or misleading information in reports required pursuant to this section shall constitute grounds for denial of a license application or revocation of an existing license. Failure to maintain adequate records required under this section, or falsifying records required under this section, may subject the license holder to disciplinary action pursuant to subsection (3) of Section 16 of this Act, including the levying of an administrative fine and denial, suspension or revocation of a license.

(e) Within four (4) years of the effective date of this Act, the commission shall require all licensed charitable organizations and organizations exempt from licensure to file required reports in computerized or electronic format. The commission may promulgate an administrative regulation establishing a phase-in schedule for achieving compliance with this requirement.

(6) No licensed charitable organization shall incur charitable gaming expenses, except as provided in this chapter. No licensed charitable organization shall be permitted to expend amounts in excess of prevailing market rates for the following charitable gaming expenses:

(a) Charitable gaming supplies and equipment;
(b) Rent;
(c) Utilities;
(d) Insurance;
(e) Advertising;
(f) Janitorial services;
(g) Bookkeeping and accounting services;
(h) Security services;
(i) Membership dues for its participation in any charitable gaming trade organization; and
(j) Any other expenses the ***commission***[~~department~~] may determine by administrative regulation to be legitimate.

(7) No licensed charitable organization shall expend receipts from charitable gaming activities nor incur expenses to form, maintain, or operate as a labor organization.

Section 15. KRS 238.555 is amended to read as follows:

(1) No person shall operate a charitable gaming facility unless the person is licensed under the provisions of this chapter.[~~ The department shall charge a license fee not to exceed two thousand five hundred dollars ($2,500). Specific license fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulation and based on the number of sessions which the facility holds per week or other applicable factors or combination of factors.~~] Charitable gaming may be conducted in a charitable gaming facility only by a licensed charitable organization in accordance with the provisions of this chapter.

(2) In the application process, an applicant for a charitable gaming facility license shall submit the following information:

(a) The address of the facility;
(b) A description of the facility to include square footage of the gaming area, capacity levels, and available parking;
(c) The names, addresses, dates of birth, and Social Security numbers of all individuals employed by or contracted with the applicant to manage the facility or provide other authorized services;

(d) The name, address, date of birth, and Social Security number of any individual who has a ten percent (10%) or greater financial interest in the facility;

(e) A copy of the lease agreement used by the applicant;[~~ and~~]

(f) ***Notification to the commission that the facility may provide bingo display boards, designators, receptacles or other selection devices, excluding electronic, computer or other technologic aid, to a licensed charitable organization conducting bingo sessions at the facility; and***

(g) Any other information the ***commission***[~~department~~] deems appropriate.

(3) No owner, officer, employee, or contractee of a licensed charitable gaming facility or an affiliate, or any member of the immediate family of any officer, employee, or contractee of a licensed charitable gaming facility or an affiliate shall, concerning a lessee:

(a) Manage or otherwise be involved in the conduct of charitable gaming;

(b) Provide bookkeeping or other accounting services related to the conduct of charitable gaming;

(c) Handle any moneys generated in the conduct of charitable gaming;

(d) Advise a licensed charitable organization on the expenditure of net receipts;

(e) Provide transportation services in any manner to patrons of a charitable gaming activity;

(f) Provide advertisement or marketing services in any manner to a licensed charitable organization ***without prior commission approval***;

(g) Provide, coordinate, or solicit the services of personnel or volunteers in any manner;

(h) Influence or require a licensed charitable organization to use a certain distributor or any particular gaming supplies;[~~ or~~]

(i) Donate or give any prize to be awarded in the conduct of charitable gaming***; or***

(j) Serve as an officer or director of a licensed charitable organization that is a lessee of the facility.

(4) A licensed charitable gaming facility shall execute a lease agreement with each licensed charitable organization that desires to conduct charitable gaming at the facility. The licensed charitable gaming facility shall agree in the lease to provide gaming space, utilities, insurance for the premises, parking, tables and chairs, and other nongaming equipment necessary for the conduct of charitable gaming, adequate storage space, security, and janitorial services. ***If the facility intends to provide bingo display boards, designators, receptacles or other selection devices, excluding electronic, computer or other technologic aids, it shall agree to do so in the lease.*** The costs of the goods and services provided shall be itemized in the lease. A licensed charitable organization may elect to provide for itself any of the goods and services that a charitable gaming facility is required to provide under this subsection, provided these arrangements are clearly noted in the lease agreement, and provided the total compensation to be paid the charitable gaming facility is reduced commensurate with the cost of the goods and services as itemized in the lease. The amount of rent, goods, and services charged shall be reasonable and shall be based on prevailing market values in the general locality for the goods and services to be provided. Rent shall not be based in whole or in part, on a percentage of gross receipts or net proceeds derived from the conduct of charitable gaming or by reference to the number of people in attendance. The ***commission***[~~department~~] by administrative regulation may establish standards for the determination of prevailing market values. A copy of each signed lease agreement shall be filed with the ***commission***[~~department~~]. The provisions of this subsection shall apply to any lease agreement for a facility where charitable gaming is to be conducted, whether or not it is with a licensed charitable gaming facility.

(5) ***A licensed charitable gaming facility shall host no more than twenty (20) bingo sessions per week. A licensed charitable gaming facility may elect to host no more than ten (10) bingo sessions per week provided it notifies the commission of this election at the time of initial application for a license or at the time it submits an application to renew its existing license. Licensed charitable gaming facilities electing to host no more than ten (10) bingo sessions per week shall be charged a license fee of one thousand two hundred fifty dollars ($1,250). Licensed charitable gaming facilities hosting more than ten (10) bingo sessions per week shall be charged a license fee of two thousand five hundred dollars ($2,500)***[~~The number of bingo sessions conducted at a charitable gaming facility shall be limited to the following:~~

~~(a) No more than eighteen (18) sessions per week if the charitable gaming facility is located in a city of the first class, in a city of the second class, in an urban-county or charter county government, or in a county containing a city of the first class or second class;~~

~~(b) No more than eight (8) sessions per week if the charitable gaming facility is located in a city of the third class, fourth class, fifth class, or sixth class, or in a county that does not contain a city of the first class or second class~~].

(6) A licensed charitable gaming facility shall report at least quarterly to the ***commission***[~~department~~] and shall provide any information concerning its operation that the ***commission***[~~department~~] may require. ***Intentionally making a false or misleading statement in reports required under this subsection, omitting to make a true entry in a report for the purpose of concealing the truth of the information required, or providing false or misleading information in a report, shall subject the license holder to disciplinary action pursuant to subsection (3) of Section 16 of this Act, including the***

levying of an administrative fine and denial, suspension or revocation of a license.

(7) A charity fundraising event at which special limited charitable games are played may be conducted at a licensed charitable gaming facility, but no licensed charitable gaming facility shall be permitted to hold more than one (1) such event per week or more than seven (7) per year.

(8) A licensed charitable gaming facility shall conspicuously display a sign bearing the name and the license number of the charitable organization that is conducting charitable gaming activities in the facility.

(9) The license to operate the charitable gaming facility shall be prominently displayed on or in the premises where charitable gaming activity is being conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the ***commission***[~~department~~], law enforcement officials, and other interested officials.

(10) Intentionally making a materially false or misleading statement or providing materially false or misleading information on a license application submitted pursuant to this section shall constitute grounds for denial of the application or revocation of an existing license.

Section 16. KRS 238.560 is amended to read as follows:

(1) The ***commission***[~~department~~] may investigate allegations of wrongdoing upon complaint or upon its own volition. The ***commission***[~~department~~] by administrative regulation shall establish procedures for receiving and investigating complaints in an expeditious manner.

(2) In carrying out its enforcement responsibilities, the ***commission***[~~department~~] may:

(a) Inspect and examine all premises in which or on which charitable gaming is conducted or charitable gaming supplies or equipment are manufactured or distributed;

(b) Seize and remove from premises and impound charitable gaming supplies and equipment for the purposes of examination and inspection pursuant to an appropriate court order;

(c) Demand access to, inspect, and audit books and records of licensees for the purpose of determining compliance with laws and administrative regulations relative to charitable gaming; and

(d) Conduct in-depth audits and investigations, when warranted.

(3) The ***commission***[~~department~~] may take appropriate administrative action against any person licensed under this chapter***, or against any person required to hold a license for the conduct of any activity authorized under this chapter,*** for any violation of the provisions of this chapter or administrative regulations promulgated thereunder. The ***commission***[~~department~~] may deny a license, suspend or revoke a license, issue a cease and desist order, place a license holder on probation, issue a letter of reprimand, and levy a fine. An administrative fine shall not exceed one thousand dollars ($1,000) for each offense. The ***commission***[~~department~~] may deny the issuance of a license or a license renewal if the applicant or licensee has failed to pay a fine levied by the ***commission***[~~department~~].[~~ The department shall by administrative regulation classify types of offenses and the recommended administrative action.~~] The type of action to be taken shall be based on the history of previous violations and the nature, severity, and frequency of the offense. Administrative action authorized in this section shall be in addition to any criminal penalties provided in this chapter or under other provisions of law.

(4) The ***commission***[~~department~~] may reinstate a license that has been revoked at any time after two (2) years from the date of revocation. A license may be reinstated only upon a finding that the violations for which the license was revoked have been corrected***, or upon a finding that the license holder has established an organizational structure, internal controls, checks and balances, and regularity of procedures sufficient to demonstrate its ability and willingness to operate in conformity with the requirements of this chapter***.

(5) All departments, divisions, boards, agencies, officers, and institutions of the Commonwealth of Kentucky and all subdivisions thereof, in particular local law enforcement entities, shall cooperate with the ***commission***[~~department~~] in carrying out its enforcement responsibilities.

(6) The ***commission***[~~department~~] shall report any activity or action which would constitute a criminal offense to the appropriate authorities in the county where the activity or action occurred and to the Attorney General.

Section 17. KRS 238.565 is amended to read as follows:

(1) A license holder may appeal any administrative action taken under KRS 238.560. A license holder shall be notified in writing of any action to be taken against him. The notification may be delivered in person or mailed by certified mail, return receipt requested, to the last known address of the license holder. Service of notification of administrative action, whether by hand delivery or by certified mail, shall be deemed complete if the license holder fails or refuses to accept delivery. For service by hand delivery, notification shall be deemed received upon acceptance of delivery or upon failure or refusal to accept delivery, and the person affecting service on behalf of the ***commission***[~~department~~] shall record the fact of the failure or refusal. For service by certified mail, the notification of administrative action shall be deemed received when the license holder accepts delivery or fails or refuses to accept delivery at the last known address. The notification shall specify the charges against the license holder, specify the proposed administrative sanction, and advise him of his right to appeal the decision within ten (10) days of the date of receipt of the notification. ***If the license holder against whom administrative action is proposed does not request an appeal of the action, the commission shall enter a***

final order imposing the administrative action.

(2) Upon receipt of an appeal ***initiated pursuant to this section***, the ***commission***~~[department]~~ shall schedule the matter for an administrative hearing that shall be conducted in accordance with KRS Chapter 13B.

(3) Any provisions of KRS Chapter 13B notwithstanding, within twenty (20) days after the conclusion of a hearing, the hearing officer shall prepare and present to the ***commission***~~[commissioner]~~ a recommended order based on findings of fact and conclusions of law. ***Parties to the administrative action must file exceptions to the hearing officer's recommendations in order to preserve for review any perceived error in the hearing officer's findings, conclusions and recommended order, and any exceptions shall be filed with the executive director within the time limit set forth in KRS 13B.110(4).*** Within ***forty-five (45)***~~[thirty (30)]~~ days of receipt of the recommended order, the ***commission***~~[commissioner]~~ shall affirm, reject, or modify, in whole or in part, the recommended order and shall issue a final order. ***For purposes of rendering final orders pursuant to this section, the chairman of the board of commissioners shall appoint a three (3) member panel of commissioners to review a hearing officer's findings, conclusions, recommended order and any exceptions, and issue a final order thereon. Decisions to affirm, reject or modify the recommended order shall be rendered upon majority vote of the reviewing panel. The panel's decision shall be the commission's final order, and the final order shall be issued by the executive director. Review of a hearing officer's findings, conclusions and recommended order shall be limited solely to consideration of the record established at the administrative hearing.*** The final order shall be the final administrative action on the matter and a copy of the final order shall be mailed to the license holder, by certified mail, return receipt requested.

(4) Any administrative action taken under this section shall, upon appeal, be stayed until a final order is issued, with the exception of ***revocations initiated pursuant to subsection (5) of Section 10 of this Act and*** a summary suspension. The ***commission***~~[department]~~ may issue an emergency order pursuant to KRS 13B.125 to summarily suspend a license upon finding that continued operation of the license holder pending a hearing would constitute a threat to the public health, safety, or welfare.

(5) A final order of the ***commission issued in an administrative action commenced pursuant to this section***~~[commissioner]~~ may be appealed to Franklin Circuit Court in accordance with KRS Chapter 13B.~~[If the license holder against whom administrative action is proposed does not request an appeal of the action, the department shall enter a final order imposing the proposed administrative action.]~~

Section 18. KRS 238.570 is amended to read as follows:

(1) A fee is imposed on charitable gaming in the amount of four-tenths of one percent (0.4%) of gross receipts derived from all charitable gaming conducted by charitable organizations required to be licensed in the Commonwealth of Kentucky. Each licensed charitable organization shall remit to the ***commission***~~[department]~~ all moneys due on a quarterly basis. Failure by a licensed charitable organization to timely remit the fee required under this subsection upon notice of delinquency shall constitute grounds for disciplinary action in accordance with KRS 238.560.

(2) The charitable gaming regulatory account is hereby created as a revolving account within the agency revenue fund and under the control of the Public Protection and Regulation Cabinet. All revenues generated from the fee levied in subsection (1) of this section from license fees and from administrative fines imposed by the ***commission***~~[department]~~ shall be deposited in this account. Moneys in this account shall be expended by the ***commission***~~[department]~~ only in the administration and enforcement of provisions of this chapter. No later than July of each odd-numbered year, the ***commission***~~[department]~~ shall assess the amount of funds raised by all fees levied in this chapter and shall make recommendations to the Legislative Research Commission concerning legislative amendments to adjust fee rates as indicated by the assessment.

(3) If the provision of subsection (1) of this section that imposes a fee of four-tenths of one percent (0.4%) of all gross receipts derived from all charitable gaming conducted by licensed charitable organizations is declared unconstitutional in a final decision of the highest appellate court of the Commonwealth of Kentucky, for the privilege of conducting charitable gaming in the Commonwealth of Kentucky, there is hereby levied upon the use, sale, rental, lease, or distribution by sale or by gift of charitable gaming supplies and equipment a fee of ten percent (10%) of the value of all supplies and equipment used, sold, rented, leased, or otherwise distributed by a licensed distributor to any licensed charitable organization in the Commonwealth of Kentucky.

(a) Every distributor of charitable gaming supplies and equipment shall pay and report the fee levied pursuant to this subsection on or before the twentieth day of the calendar month next succeeding the month in which possession of the charitable gaming supplies and equipment is transferred from the distributor to the licensed charitable organization, in accordance with administrative regulations promulgated by the ***commission***~~[department]~~.

(b) The ***commission***~~[department]~~ may require a bond from distributors in accordance with the administrative regulations promulgated by the ***commission***~~[department]~~.

(4) If the alternative license fee schedule as provided in subsection (3) of this section is activated due to a final decision of the highest appellate court in the Commonwealth of Kentucky as provided in subsection (3) of this section, the distributor's license fee as provided in KRS 238.530(1) shall become inapplicable.

Section 19. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
  1. The Governor.
  2. Lieutenant Governor.
  3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
  4. Department of Law.
    (a) Attorney General.
  5. Department of the Treasury.
    (a) Treasurer.
  6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
  7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:
  1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.
    (h) Division of Kentucky State Medical Examiners Office.
    (i) Parole Board.
    (j) Kentucky State Corrections Commission.
    (k) Commission on Correction and Community Service.
  2. Education, Arts, and Humanities Cabinet:
    (a) Department of Education.
      (1) Kentucky Board of Education.
    (b) Department for Libraries and Archives.
    (c) Kentucky Arts Council.
    (d) Kentucky Educational Television.
    (e) Kentucky Historical Society.
    (f) Kentucky Teachers' Retirement System Board of Trustees.
    (g) Kentucky Center for the Arts.
    (h) Kentucky Craft Marketing Program.
    (i) Kentucky Commission on the Deaf and Hard of Hearing.
    (j) Governor's Scholars Program.
    (k) Governor's School for the Arts.

    (l) Operations and Development Office.
    (m) Kentucky Heritage Council.
    (n) Kentucky African-American Heritage Commission.
    (o) Board of Directors for the Center for School Safety.

3. Natural Resources and Environmental Protection Cabinet:
    (a) Environmental Quality Commission.
    (b) Kentucky Nature Preserves Commission.
    (c) Department for Environmental Protection.
    (d) Department for Natural Resources.
    (e) Department for Surface Mining Reclamation and Enforcement.
    (f) Office of Legal Services.
    (g) Office of Information Services.
    (h) Office of Inspector General.
4. Transportation Cabinet:
    (a) Department of Highways.
        1. Office of Program Planning and Management.
        2. Office of Project Development.
        3. Office of Construction and Operations.
        4. Office of Intermodal Programs.
        5. Highway District Offices One through Twelve.
    (b) Department of Vehicle Regulation.
    (c) Department of Administrative Services.
    (d) Department of Fiscal Management.
    (e) Department of Rural and Municipal Aid.
    (f) Department of Human Resources Management.
    (g) Office of the Secretary.
    (h) Office of General Counsel and Legislative Affairs.
    (i) Office of Public Affairs.
    (j) Office of Transportation Delivery.
    (k) Office of Minority Affairs.
    (l) Office of Policy and Budget.
    (m) Office of Technology.
    (n) Office of Quality.
5. Cabinet for Economic Development:
    (a) Department of Administration and Support.
    (b) Department for Business Development.
    (c) Department of Financial Incentives.
    (d) Department of Community Development.
    (e) Department for Coal County Development.
    (f) Tobacco Research Board.
    (g) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
    (a) Public Service Commission.
    (b) Department of Insurance.
    (c) Department of Housing, Buildings and Construction.
    (d) Department of Financial Institutions.
    (e) Department of Mines and Minerals.
    (f) Department of Public Advocacy.

- (g) Department of Alcoholic Beverage Control.
- (h) Kentucky Racing Commission.
- (i) Board of Claims.
- (j) Crime Victims Compensation Board.
- (k) Kentucky Board of Tax Appeals.
- (l) Backside Improvement Commission.
- (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
- (n) [~~Department of~~]Charitable Gaming ***Regulatory Commission***.
- (o) Mine Safety Review Commission.

7. Cabinet for Families and Children:
    - (a) Department for Community Based Services.
    - (b) Department for Disability Determination Services.
    - (c) Public Assistance Appeals Board.
    - (d) Office of the Secretary.
        - (1) Kentucky Commission on Community Volunteerism and Service.
    - (e) Office of the General Counsel.
    - (f) Office of Program Support.
    - (g) Office of Family Resource and Youth Services Centers.
    - (h) Office of Technology Services.
    - (i) Office of the Ombudsman.
    - (j) Office of Performance Enhancement.
8. Cabinet for Health Services.
    - (a) Department for Public Health.
    - (b) Department for Medicaid Services.
    - (c) Department for Mental Health and Mental Retardation Services.
    - (d) Kentucky Commission on Children with Special Health Care Needs.
    - (e) Office of Certificate of Need.
    - (f) Office of the Secretary.
    - (g) Office of the General Counsel.
    - (h) Office of Program Support.
    - (i) Office of the Inspector General.
    - (j) Office of Aging Services.
9. Finance and Administration Cabinet:
    - (a) Office of Legal and Legislative Services.
    - (b) Office of Management and Budget.
    - (c) Office of Financial Management.
    - (d) Office of the Controller.
    - (e) Department for Administration.
    - (f) Department of Facilities Management.
    - (g) State Property and Buildings Commission.
    - (h) Kentucky Pollution Abatement Authority.
    - (i) Kentucky Savings Bond Authority.
    - (j) Deferred Compensation Systems.
    - (k) Office of Equal Employment Opportunity Contract Compliance.
    - (l) Office of Capital Plaza Operations.
    - (m) County Officials Compensation Board.
    - (n) Kentucky Employees Retirement Systems.
    - (o) Commonwealth Credit Union.

(p) State Investment Commission.
(q) Kentucky Housing Corporation.
(r) Governmental Services Center.
(s) Kentucky Local Correctional Facilities Construction Authority.
(t) Kentucky Turnpike Authority.
(u) Historic Properties Advisory Commission.
(v) Kentucky Tobacco Settlement Trust Corporation.
(w) Eastern Kentucky Exposition Center Corporation.

10. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Information Technology.
(m) Office of Labor-Management Relations and Mediation.
(n) Office of General Counsel.
(o) Workers' Compensation Funding Commission.
(p) Employers Mutual Insurance Authority.

11. Revenue Cabinet:
(a) Department of Property Valuation.
(b) Department of Tax Administration.
(c) Office of Financial and Administrative Services.
(d) Department of Law.
(e) Department of Information Technology.
(f) Office of Taxpayer Ombudsman.

12. Tourism Development Cabinet:
(a) Department of Travel.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of General Counsel.
(h) Tourism Development Finance Authority.

13. Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) State Board for Adult and Technical Education.

(g) The State Board for Proprietary Education.
(h) The Foundation for Adult Education.
(i) Department for Training and Reemployment.
(j) Office of General Counsel.
(k) Office of Communication Services.
(l) Office of Development and Industry Relations.
(m) Office of Workforce Analysis and Research.
(n) Office for Administrative Services.
(o) Office for Policy and Budget.
(p) Office of Personnel Services.
(q) Unemployment Insurance Commission.

14. Personnel Cabinet:
(a) Office of Administrative and Legal Services.
(b) Department for Personnel Administration.
(c) Department for Employee Relations.
(d) Kentucky Public Employees Deferred Compensation Authority.
(e) Kentucky Kare.
(f) Division of Performance Management.
(g) Division of Employee Records.
(h) Division of Staffing Services.
(i) Division of Classification and Compensation.
(j) Division of Employee Benefits.
(k) Division of Communications and Recognition.
(l) Office of Public Employee Health Insurance.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Council on Postsecondary Education.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. The Governor's Office for Technology.
9. Commission on Small Business Advocacy.
10. Education Professional Standards Board.

Section 20. KRS 15.380 is amended to read as follows:

(1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:
(a) State Police officers, but for the commissioner of the State Police;
(b) City, county, and urban-county police officers;
(c) Deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);
(d) State or public university safety and security officers appointed pursuant to KRS 164.950;
(e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;
(f) Airport safety and security officers appointed under KRS 183.880;
(g) Department of Alcoholic Beverage Control field representatives and investigators appointed under KRS 241.090; and
(h) Division of Insurance Fraud Investigation investigators appointed under KRS 304.47-040.

(2) The requirements of KRS 15.380 to 15.402 for certification may apply to all state peace officers employed pursuant to

KRS Chapter 18A and shall, if adopted, be incorporated by the Department of Personnel for job specifications.

(3) Additional training in excess of the standards set forth in KRS 15.380 to 15.402 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.

(4) The following officers may, upon request of the employing agency, be certified by the council:

- (a) Deputy coroners;
- (b) Deputy constables;
- (c) Deputy jailers;
- (d) Deputy sheriffs under KRS 70.045 and 70.263(3);
- (e) Officers appointed under KRS 61.360;
- (f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;
- (g) Private security officers;
- (h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080; and
- (i) Investigators employed by the [~~Division of~~]Charitable Gaming ***Regulatory Commission*** in accordance with KRS 238.510.

(5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:

- (a) Sheriffs;
- (b) Coroners;
- (c) Constables;
- (d) Jailers;
- (e) Racing Commission security officers employed under KRS 230.240; and
- (f) Commissioner of the State Police; and

(6) Federal peace officers cannot be certified under KRS 15.380 to 15.402.

Section 21. KRS 15.728 is amended to read as follows:

All law enforcement agencies and investigative bodies shall notify the[~~ Department of~~] Charitable Gaming ***Regulatory Commission*** of any investigation or prosecution of any violation of the charitable gaming laws as soon as reasonably possible after commencing the investigation or prosecution and shall coordinate any investigation with the ***commission***[~~department~~].

The Committee Substitute to **HB 743** is as follows:

HB 743, AN ACT relating to charitable gaming.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 238 IS CREATED TO READ AS FOLLOWS:

To promote the effective oversight, study and monitoring of the charitable gaming industry in Kentucky, the commission shall have the authority to establish and implement pilot programs regarding the conduct of charitable gaming. The commission may authorize individual licensees or groups of licensees to participate in pilot programs designed to evaluate the effectiveness and productivity of innovations in technology, in the conduct of authorized charitable games, in the frequency and duration of charitable gaming activities, in reporting, accounting and recordkeeping techniques, and in licensing procedures, training and education. Pilot programs shall be designed and implemented upon agreement by the executive director and a majority of the board of commissioners. Pilot programs shall be temporary in duration and shall not exceed one hundred eighty (180) days in length, or, in the case of programs related to charitable gaming reporting, two (2) complete calendar quarters. To be eligible for participation in a pilot program, a licensee shall not be the subject of a pending administrative disciplinary action and shall be current on all fees or fines owed the commission. Licensees participating in any pilot program shall have satisfied the requirements of Section 10 of this Act for the most recent calendar year and shall demonstrate current compliance with that section at the time of participation, unless the pilot program is specifically designed to address the deficiencies of licensees having violated Section 10 of this Act. Upon completion of a pilot program, the executive director shall issue to the board a report explaining the results of the program.

Section 2. KRS 238.500 is amended to read as follows:

The General Assembly of the Commonwealth of Kentucky hereby declares that charitable gaming conducted by charitable organizations is an important method of raising funds for legitimate charitable purposes and is in the public interest. The purpose of this chapter is to comply with constitutional requirements by establishing an effective and efficient mechanism for regulating charitable gaming which includes defining the scope of charitable gaming activities, setting standards for the conduct of charitable gaming which insure honesty and integrity, providing for means of ***secure, electronic*** accounting for all moneys generated through the conduct of charitable gaming, and providing for suitable penalties for violations of laws and administrative regulations. The intent of this chapter is to prevent the commercialization of charitable gaming, to prevent participation in charitable gaming by criminal and other undesirable elements, and to prevent the diversion of funds from legitimate charitable purposes. In order to carry out the purpose and intent, the provisions of this chapter, and any administrative regulations promulgated in accordance with this chapter, shall be construed in the public interest and strictly enforced.

Section 3. KRS 238.505 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "***Commission***~~[Department]~~" means the ***Charitable Gaming Regulatory Commission***~~[Department of Charitable Gaming]~~ within the Public Protection and Regulation Cabinet;

(2) "Charitable gaming" means bingo, charity game tickets, raffles, and charity fundraising events conducted for fundraising purposes by charitable organizations licensed and regulated under the provisions of this chapter. Charitable gaming shall not include ***gambling devices as defined in KRS 528.010(4), electronic or electromechanical facsimiles of gambling devices as defined in subsection (28) of this section, video*** slot machines, ***video poker machines***~~[electronic video gaming devices]~~, wagering on live sporting events, or simulcast broadcasts of horse races;

(3) "Charitable organization" means a nonprofit entity organized for charitable, religious, educational, literary, civic, fraternal, or patriotic purposes;

(4) "Bingo" means a specific game of chance in which participants use cards or paper sheets, or card-minding device representations thereof, divided into horizontal and vertical spaces, each of which is designated by a letter and a number, and prizes are awarded on the basis of the letters and numbers on the card conforming to a predetermined and preannounced configuration of letters and numbers selected at random***. Bingo may include the use of electronic, computer or other technologic aids as that term is defined in subsection (29) of this section***;

(5) "Charity game ticket" means a game of chance using a folded or banded paper ticket, or a paper card with perforated break-open tabs, the face of which is covered or otherwise hidden from view to conceal a number, letter, symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners and shall include charity game tickets that utilize a seal card. Charity game ticket shall include pulltabs***. The play of charity game tickets may include the use of electronic, computer or other technologic aids as that term is defined in subsection (29) of this section***;

(6) "Seal card" means a board or placard used in conjunction with charity game tickets, that contains a seal or seals which, when removed or opened, reveal predesignated winning numbers, letters, or symbols;

(7) "Raffle" means a game of chance in which a participant is required to purchase a ticket for a chance to win a prize, with the winner to be determined by a random drawing;

(8) "Charity fundraising event" means a fundraising activity of limited duration at which games of chance approved by the ***commission***~~[department]~~ are conducted, including bingo, raffles, charity game tickets, special limited charitable games, and wagering on prerecorded horse races, KRS Chapter 230 notwithstanding. Examples of such activities include events that attract patrons for community, social, and entertainment purposes apart from charitable gaming, such as fairs, festivals, carnivals, and bazaars;

(9) "Manufacturer" means a person who assembles from raw materials or subparts any charitable gaming equipment or supplies used in the conduct of charitable gaming, including a person who converts, modifies, and adds to or removes parts from, charitable gaming equipment and supplies. The term shall not include:

  (a) Any person who services or repairs charitable gaming supplies and equipment, so long as that person replaces or repairs an incidental, malfunctioning, or nonfunctioning part with a similar or identical part; and

  (b) Any distributor who cuts, collates, and packages for distribution any gaming supplies and equipment purchased in bulk;

(10) "Distributor" means a person who sells, markets, leases, or otherwise furnishes to a charitable organization charitable gaming equipment or supplies, or both, used in the conduct of charitable gaming. "Distributor" shall not include:

  (a) A resident printer who prints raffle tickets at the request of a licensed charitable organization; and

  (b) A licensed charitable organization that affects a one-time donation of charitable gaming supplies or equipment to another licensed charitable organization if the donation is first approved by the ***commission***~~[department]~~.

(11) "Charitable gaming facility" means a person, including a licensed charitable organization, that owns or is a lessee of premises which are leased or otherwise made available to two (2) or more licensed charitable organizations during a one (1) year period for the conduct of charitable gaming;

(12) "Gross receipts" means all moneys collected or received from the conduct of charitable gaming;

(13) "Adjusted gross receipts" means gross receipts less all cash prizes and the amount paid for merchandise prizes purchased;

(14) "Net receipts" means adjusted gross receipts less all expenses, charges, fees, and deductions authorized under this chapter;

(15) "Charitable gaming supplies and equipment" means any material, device, apparatus, or paraphernalia customarily used in

the conduct of charitable gaming, including bingo cards and paper, charity game tickets, ***electronic, computer or other technologic aids as that term is defined in subsection (29) of this section and used in the conduct of charitable gaming,*** and other apparatus or paraphernalia used in conducting games of chance at charity fundraising events subject to regulation under this chapter. The term shall not include any material, device, apparatus, or paraphernalia incidental to the game, such as pencils, daubers, playing cards, or other supplies that may be purchased from normal sources of supply;

(16) "Door prize" means a prize awarded to a person based solely upon the person's attendance at an event or the purchase of a ticket to attend an event;

(17) "Special limited charitable game" means roulette; blackjack; poker; keno; money wheel; baccarat; pusher-type games; any dice game where the player competes against the house; and any other game of chance as identified, defined, and approved by administrative regulation of the ***commission***[~~department~~];

(18) "Special limited charity fundraising event" means any type of charity fundraising event, commonly known as and operated as a "casino night," "Las Vegas night," or "Monte Carlo night," at which the predominant number or types of games offered for play are special limited charitable games;

(19) "Session or bingo session" means a single gathering at which a bingo game or series of successive bingo games are played, excluding bingo played at a charity fundraising event;

(20) "Immediate family" means:

(a) Spouse and parents-in-law;

(b) Parents and grandparents;

(c) Children and their spouses; and

(d) Siblings and their spouses;

(21) "Affiliate" means any corporation, partnership, association, or other business or professional entity or any natural person that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with a licensed manufacturer, distributor, or charitable gaming facility;

(22) "Secretary" means the secretary of the Public Protection and Regulation Cabinet;

(23) "Commissioner" means ***a member of the board of commissioners of the Charitable Gaming Regulatory Commission***[~~the commissioner of the Department of Charitable Gaming~~] within the Public Protection and Regulation Cabinet;

(24) "Chairperson" means the chief executive officer and any officer, member, or employee of a licensed charitable organization who will be involved in the management and supervision of charitable gaming as designated in the organization's charitable gaming license application under KRS 238.535(9)(g);

(25) "Year" means calendar year except as used in KRS 238.545(4), 238.547(1), and 238.555(7), when "year" means the licensee's license year;[~~ and~~]

(26) "Card-minding device" means any mechanical, electronic, electromechanical, or computerized device that is interfaced with or connected to equipment used to conduct a game of bingo and that allows a player to store, display, and mark a bingo card face[~~. A card-minding device shall not be designed and manufactured to resemble any electronic gaming device that utilizes a video display monitor, such as a video lottery terminal, video slot machine, video poker machine, or any similar video gaming device.~~]***;***

(27) "Executive Director" means the executive director of the Charitable Gaming Regulatory Commission within the Public Protection and Regulation Cabinet;

(28) "Electronic or electromechanical facsimile of a gambling device" means an electronic or electromechanical duplicate of a gambling device as defined in KRS 528.010(4), including but not limited to video slot machines and video poker machines;

(29) "Electronic, computer or other technologic aid" means a device such as a computer, telephone, cable, television, satellite or selection device that, when used in the conduct of charitable gaming:

(a) Is not a game of chance but assists a player or the playing of a game;

(b) Is operated to broaden participation in a game where individual players play with or against other players rather than against a machine or device; and

(c) Is not an electronic or electromechanical facsimile of a gambling device; and

(30) "Board of commissioners" or "board" means the seven (7) commissioners that comprise the Charitable Gaming Regulatory Commission.

Section 4. KRS 238.510 is amended to read as follows:

(1) The ***Charitable Gaming Regulatory Commission***[~~Department of Charitable Gaming~~] is created as ***an independent agency of state government established*** [~~a department~~] within the Public Protection and Regulation Cabinet. The ***commission shall consist of the board of commissioners, executive director and any staff employed to administer the provisions of this chapter. The commission***[~~department~~] shall license and regulate the conduct of charitable gaming and license and regulate charitable organizations that desire to engage in charitable gaming, charitable gaming facilities, manufacturers,

and distributors in the Commonwealth of Kentucky in accordance with the provisions of this chapter.

(2) ***The board of commissioners shall be composed of seven (7) members who shall be appointed by the Governor. Recommendations for appointments to the board may be sought from any entity representative of the charitable gaming industry, including representatives of the various classes of charitable organizations qualified to possess charitable gaming licenses. These classes of licensees shall include, but not be limited to, religious and veterans organizations, volunteer fire departments, public and private schools and school booster groups, and fraternal societies. Each commissioner shall have demonstrated experience, expertise, interest or participation in some facet of the charitable gaming industry as a condition of appointment. Any entity making recommendations for appointment to the board shall submit to the Governor a list of three (3) names for consideration, and the Governor may choose commissioners from these lists or may reject all nominees and request the submission of new nominees. At least one (1) commissioner shall be a certified public accountant, and at least one (1) commissioner shall be a member of the Kentucky Bar Association. All commissioners shall be residents of the Commonwealth of Kentucky. For initial appointments two (2) commissioners shall be appointed for one (1) year terms, two (2) for two (2) year terms and three (3) for three (3) year terms. Thereafter, all commissioners appointed by the Governor shall serve a term of four (4) years or until their successors are appointed and duly qualified. No commissioner shall serve more than two (2) terms of four (4) years. The Governor shall annually designate one (1) of the commissioners as chairman of the board, and the board shall annually elect one (1) other commissioner as a vice chair. No commissioner shall serve as chairman or vice chair for more than two (2) consecutive years. Commissioners shall be paid fifty dollars ($50) for each meeting attended, in addition to travel expenses and other expenses incurred in the attendance of meetings and the performance of official functions***~~[The department shall be headed by a commissioner who shall be appointed by the Governor upon recommendation of the secretary. The commissioner shall employ staff as may be necessary to administer and enforce the provisions of this chapter]~~.

(3) ***The Governor shall appoint an executive director for the commission. The executive director shall be responsible for the day-to-day management of the commission's affairs and shall employ staff as may be necessary to administer and enforce the provisions of this chapter.*** All ***commission***~~[department]~~ staff shall be~~[classified and]~~ employed in accordance with applicable personnel requirements of the Personnel Cabinet in accordance with KRS Chapter 18A. ***The commission shall establish and maintain in Frankfort an office for the conduct of its business.***

(4) No employee of the ***commission***~~[department]~~ during his or her term of employment shall be an officer in a charitable organization that is licensed to conduct charitable gaming or be involved in the conduct of charitable gaming as a member of a licensed charitable organization. No employee of the ***commission***~~[department]~~ during his or her term of employment shall be licensed as a manufacturer, distributor, or charitable gaming facility, or have a financial interest in any business that is licensed as a manufacturer, distributor, or charitable gaming facility.

(5) The ***executive director***~~[commissioner]~~ shall ***employ***~~[appoint]~~ charitable gaming investigators who shall have the powers of peace officers throughout the Commonwealth; however, those powers shall be limited to:

(a) Enforcement of the provisions of KRS Chapter 238, relating to charitable gaming;

(b) Violations of KRS Chapter 528~~[,]~~ relating to ***illegal gambling***~~[:~~

~~1. Unlicensed and illegal charitable gaming;~~

~~2. Gambling offenses committed on licensed charitable gaming premises; and~~

~~3. Gambling offenses committed in conjunction with charitable gaming]~~;

(c) Violations of KRS Chapter 514, relating to theft, embezzlement, or other illegal diversions of charitable gaming proceeds;

(d) Violations of KRS Chapters 516 and 517, relating to forgery and fraud in the conduct of charitable gaming;

(e) Violations relating to the damage or destruction of real or personal property owned or leased by a charitable gaming licensee; and

(f) Violation of any criminal~~[felony]~~ offense committed:

1. On licensed charitable gaming premises; ***or***~~[and]~~

2. In the presence of a charitable gaming investigator ***when the offense committed is a felony***.

(6) Charitable gaming investigators shall satisfy the certification standards established by the Department of Criminal Justice Training pursuant to KRS Chapter 15. ***Any commission employee with direct supervisory responsibility over charitable gaming investigators shall be qualified to possess, and shall possess, peace officer powers granted under subsection (5) of this section as a condition of employment.*** The ***executive director and any other person employed in a policy-making position with the commission***~~[commissioner]~~ may possess peace officer powers granted under subsection (5) of this section, if he or she is duly qualified. Charitable gaming investigators ***and other commission employees possessing peace officer powers*** shall not qualify for hazardous duty coverage under the Kentucky Employees Retirement System.

(7) Charitable gaming investigators~~[so appointed]~~ shall not possess peace officer powers other than those provided in subsection (5) of this section.

Section 5. KRS 238.515 is amended to read as follows:

The ***commission***[~~department~~] shall license and regulate the conduct of charitable gaming in the Commonwealth of Kentucky. In discharging this responsibility, the ***commission***[~~department~~] shall have the following powers and duties:

(1) Licensing charitable organizations, charitable gaming facilities, manufacturers, and distributors that desire to engage in charitable gaming;

(2) Establishing and enforcing reasonable standards for the conduct of charitable gaming and the operation of charitable gaming facilities;

(3) Prescribing reasonable fees for licenses;

(4) Establishing ***and implementing reasonable*** standards ***and secure electronic systems*** of accounting, recordkeeping, and reporting to insure charitable gaming receipts are properly accounted for;

(5) Establishing a process for reviewing complaints and allegations of wrongdoing, and for investigating complaints with merit. In furtherance of this duty, the ***commission***[~~department~~] shall have the authority to issue administrative subpoenas and summonses ***for the purpose of compelling the attendance of witnesses and the production of documents, records or other evidence. If a person to whom a subpoena is issued refuses to appear or to produce documents, records or other evidence, the commission may compel compliance with the subpoena by obtaining an appropriate order from the Franklin Circuit Court***. The ***commission***[~~department~~] shall also establish toll-free telephone service for receiving complaints and inquiries;

(6) Taking appropriate disciplinary action and making referrals for criminal prosecution of persons who do not operate in compliance with this chapter;

(7) Collecting and depositing all fees and fines in the charitable gaming regulatory account and administering the account;

(8) Employing necessary staff, securing adequate office space, and executing other administrative and logistical matters as may be necessary to assure proper functioning of the ***commission***[~~department~~];[~~ and~~]

(9) Promulgating administrative regulations, in accordance with KRS Chapter 13A, which are necessary to carry out the purposes and intent of this chapter***; and***

(10) Issuing final orders and other orders as may be necessary for the exercise of its powers and performance of its duties.

Section 6. KRS 238.520 is amended to read as follows:

(1) ***The board of commissioners shall have oversight responsibility with respect to the commission's regulation of charitable gaming in Kentucky. In furtherance of this responsibility, the board shall monitor and study the charitable gaming industry and shall have the regulatory discretion and authority to establish standards for the conduct of charitable gaming consistent with the provisions of this chapter. The executive director and commission staff shall provide all administrative and logistical support necessary to the board's exercise of its proper functions and shall make reports to the board from time to time as the board may require***[~~The Charitable Gaming Advisory Commission is created to be composed of nine (9) members consisting of:~~

~~(a) The secretary of the Public Protection and Regulation Cabinet or his designee;~~

~~(b) The Attorney General or his designee;~~

~~(c) One (1) representative from the Kentucky Commonwealth's Attorneys Association;~~

~~(d) One (1) representative from the Kentucky Charitable Gaming Association;~~

~~(e) One (1) certified public accountant; and~~

~~(f) Four (4) members selected from the public at large.~~

~~The certified public accountant, the four (4) at-large members, and the representatives from the Kentucky Commonwealth's Attorneys Association and the Kentucky Charitable Gaming Association shall be appointed by the Governor. The representative from each of the two (2) associations shall be selected from a list of at least three (3) names submitted to the Governor by the respective association~~].

(2) ***(a) The board shall meet and hold hearings six (6) times each year, with one (1) meeting held during each calendar quarter, and may hold additional meetings and hearings upon motion of a commissioner, with a majority of the board voting affirmatively to hold a meeting or hearing, or at the request of a licensee when a majority of the board votes affirmatively to hold a meeting or hearing. A motion to hold a meeting or hearing, or a licensee's request to hold a meeting or hearing, shall be in writing and delivered to the commission at its office by certified mail, return receipt requested. The executive director shall provide to the board chairman written notice of the motion or request to hold a meeting or hearing and shall provide copies of such notice to each commissioner by regular mail. Commissioners voting on a motion or request for a meeting or hearing shall transmit their vote to the board chairman in writing, by any reasonable means such as by facsimile or electronic mail, and the vote tally and resulting decision shall be transmitted to the movant or requesting licensee, and to the executive director, in writing, by the chairman.***

(b) When the board votes to hold a meeting or hearing, the hearing shall be scheduled not more than thirty (30) days after the date the decision to hold the meeting or hearing is delivered to the executive director. The

executive director shall provide written notice of the date, location and agenda of each meeting or hearing to all interested parties by certified mail and additionally shall publish notice to the public of any meeting or hearing in the locale where the meeting or hearing will be held. Board meetings and hearings may be held in Frankfort or at any location deemed suitable by the chairman, in consideration of the subject of the meeting or hearing and the location of any licensees having requested a meeting or hearing. At least three (3) of the six (6) meetings or hearings required by this subsection, including at least one (1) quarterly meeting, shall be held regionally in suitable locations around the Commonwealth.

(c) Board meetings and hearings shall conform to the requirements of KRS Chapter 61 regarding open meetings, and the executive director shall compile and retain the record established at a meeting or hearing. A majority of the board shall constitute a quorum for conducting board business at meetings and hearings[~~Initial appointments to the commission shall be for staggered terms as follows: one (1) member for a term of one (1) year; two (2) members for a term of two (2) years; two (2) members for a term of three (3) years; and two (2) members for a term of four (4) years. Thereafter, each member shall be appointed for a term of four (4) years. No member from the public at large shall be appointed in the same year. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term. No member of the commission may serve more than two (2) full terms~~].

(3) *In establishing standards for the regulation and conduct of charitable gaming in accordance with this chapter, the board shall consider the following factors:*

(a) Legally authorized gaming activities and practices in states in close proximity to Kentucky and the effect those activities and practices have on the ability of Kentucky licensed charitable organizations to conduct gaming profitably;

(b) The number of licensed charitable organizations to be affected by proposed standards, the size, structure, membership, and charitable functions of these organizations and the projected effect that proposed standards will have on the ability of these organizations to conduct charitable gaming activities profitably;

(c) The amounts of charitable gaming gross receipts, adjusted gross receipts, and net receipts derived, and prizes and charitable gaming expenses paid, by charitable organizations to be affected by proposed standards;

(d) The number of charitable gaming facilities to be affected by proposed standards and the characteristics of these facilities, including:

1. The location, size, capacity and amenities of facilities to be affected;

2. The geographic areas from which these facilities draw patronage, whether these areas are located within or outside the Commonwealth;

3. The number of organizations conducting bingo sessions, the number of bingo sessions conducted and the attendance at these facilities;

4. The gross, adjusted gross and net receipts derived by licensed organizations conducting bingo sessions or other charitable gaming activities in these facilities; and

(e) Any other relevant factors brought to the attention of the board, executive director or commission staff[~~The Charitable Gaming Advisory Commission shall provide ongoing advice and input to the department and to the General Assembly but shall not establish policy or become directly involved in the licensing and regulation of charitable gaming by the department.~~

~~(4) The commission shall meet quarterly or as otherwise directed by the department. Five (5) members shall constitute a quorum for conducting business. The commission shall annually elect a chairman from its membership, and no person elected chairman shall serve more than two (2) consecutive terms of one (1) year each. Members shall receive no compensation for serving on the commission, but shall be reimbursed for travel expenses for attending meetings and performing other official functions, consistent with state reimbursement policy for state employees~~].

Section 7. KRS 238.525 is amended to read as follows:

(1) Licenses shall be issued by the ***commission***[~~department~~] on an annual[~~ or biennial~~] basis, except as otherwise permitted in KRS 238.530 and 238.545. A license term may be determined by the ***commission***[~~department~~] in any manner it deems appropriate to facilitate efficient licensing. The ***commission***[~~department~~] shall charge a renewal fee not to exceed the maximum amounts established in KRS 238.530, 238.535, and 238.555.

(2) The ***commission***[~~department~~] may issue a temporary license to an applicant who has met the requirements for a license. A temporary license shall be valid from the date of issuance until the regular license is issued or for a period of sixty (60) days, whichever is shorter. A temporary license shall not be renewed, except for good cause and shall not exceed a total of nine (9) months in length.

(3) An applicant for any license to be issued under KRS 238.530 and 238.555 shall be subjected to a state and national criminal history background check by the ***commission***[~~department~~], with the assistance of the Kentucky State Police and the Federal Bureau of Investigation. An applicant for any license to be issued under KRS 238.535 shall be subjected to a state criminal history background check and may, if deemed reasonably necessary, be subjected to a national criminal history background check by the ***commission***[~~department~~] with the assistance of the Kentucky State Police and the Federal

Bureau of Investigation. The criminal history background check shall apply to the chief executive officer and the chief financial officer or director of an applicant; any employee or member of an applicant who has been designated as chairperson of the charitable gaming activity; the applicant itself; and any individual with a ten percent (10%) or more financial interest in the applicant. The ***commission***~~[department]~~ shall require the fingerprinting of all applicants for licensure under KRS 238.530 and 238.555 and may require, if deemed reasonably necessary, the fingerprints of all applicants for licensure under KRS 238.535, who are natural persons in connection with the national criminal history background check to assure the identity of the applicant or applicants. The ***commission***~~[department]~~ may charge a reasonable fee not to exceed the actual cost of fingerprinting and records searching.

(4) No applicant shall be licensed and no license holder shall be able to maintain a license if an individual associated with the applicant or license holder in a capacity listed in subsection (3) of this section or the applicant or license holder itself has been convicted of a felony, gambling offense, criminal fraud, forgery, theft, falsifying business records, violation of KRS 238.995***(1), (2), (3), (4) and*** (7), or any two (2) misdemeanor crimes in federal court or the courts of any state, the District of Columbia, or any territory, consistent with the provisions of KRS Chapter 335B within ten (10) years preceding the application for licensure.

(5) No applicant shall be licensed unless all applicants required to be fingerprinted under the provision of subsection (3) of this section have been fingerprinted. The Kentucky State Police may submit fingerprints of any applicant to the Federal Bureau of Investigation for the national criminal history background check. The ***commission***~~[department]~~ may by administrative regulation impose additional qualifications to meet the requirements of Pub. L. 92-544.

(6) If a change occurs in any information submitted during the license application process, the applicant or licensee shall notify the ***commission***~~[department]~~ in writing within thirty (30) days of the date the change occurred.

Section 8. KRS 238.530 is amended to read as follows:

(1) No person shall sell, offer to sell, rent, lease, or otherwise furnish charitable gaming supplies or equipment unless the person is licensed by the ***commission***~~[department]~~ as a distributor***, except that a charitable gaming facility may lease bingo display boards, designators, receptacles or other selection devices, excluding electronic, computer or other technologic aid, to a licensed charitable organization conducting bingo sessions at a facility***. The ***commission***~~[department]~~ shall charge a license fee not to exceed one thousand dollars ($1,000).

(2) No person shall sell, offer to sell, rent, lease, or otherwise furnish charitable gaming supplies and equipment unless the person is licensed by the ***commission***~~[department]~~ as a manufacturer. The ***commission***~~[department]~~ shall charge a license fee not to exceed one thousand dollars ($1,000).

(3) No person who is licensed as a charitable organization, and no owner, officer, employee, or member of the immediate family of an owner, officer, or employee of a licensed charitable gaming facility shall be eligible for licensure as a distributor or manufacturer. No affiliate of an owner, officer, or employee, or member of the immediate family of an owner, officer, or employee of a licensed charitable gaming facility shall be licensed as a distributor or manufacturer. No person who is a licensed wholesaler or distributor of alcoholic beverages shall be licensed as a distributor or manufacturer. No person who is licensed as a distributor shall be licensed as a manufacturer, and no person licensed as a manufacturer shall be licensed as a distributor.

(4) An applicant for a license as a manufacturer or distributor shall apply for license on forms provided by the ***commission***~~[department]~~ and shall submit as part of the application process the following:

(a) The full name, address, date of birth, and Social Security number ***or federal tax identification number*** of the applicant;

(b) If the applicant is a corporation or other business entity, the names, addresses, dates of birth, and Social Security numbers of all officers and management personnel;

(c) The name, address, date of birth, and Social Security number of any individual who has ten percent (10%) or more financial interest in the applicant organization;

(d) Federal employer tax number;

(e) A sworn statement by the applicant or the appropriate officer that all information provided is true and correct and that the applicant agrees to comply with the applicable provisions of this chapter and all applicable administrative regulations promulgated thereunder;

(f) The name, address, and telephone number of a registered agent within the Commonwealth of Kentucky, if the applicant is not a resident; and

(g) Any other information the ***commission***~~[department]~~ deems appropriate.

(5) ***For the purpose of facilitating accurate, secure, electronic accounting, reporting and recordkeeping, each licensed manufacturer shall print or affix to all items of charitable gaming supplies and equipment a unique identification serial number in both human readable and bar-code format. The commission may promulgate administrative regulations to address the content and format of identification serial numbers and bar-codes for specific types of charitable gaming supplies and equipment.***

(6) Each licensed manufacturer and distributor shall maintain a complete set of records as may be required by the

commission[~~department~~] to document all activities related to the sale, rental, lease, or furnishing of charitable gaming supplies and equipment in the Commonwealth of Kentucky. These records shall be ***maintained in computerized or electronic format and shall be*** available for inspection by the ***commission***[~~department~~] at reasonable times, and all records shall be maintained for a minimum of three (3) years. The ***commission***[~~department~~] may require a licensed manufacturer and distributor to report on its activity, with the content and frequency of these reports to be prescribed by administrative regulation promulgated by the ***commission***[~~department~~]. ***Intentionally making materially false or misleading statements or providing materially false or misleading information in reports required pursuant to this section, or omitting to make a true entry in such reports for the purpose of concealing the truth of the information required, shall constitute grounds for denial of a license application or revocation of an existing license. Failure to maintain adequate records required under this section, or falsifying records required under this section, shall constitute grounds for disciplinary action pursuant to subsection (3) of Section 16 of this Act, including the levying of an administrative fine and denial, suspension or revocation of a license.***

(7)[~~(6)~~] A distributor who does not receive payment in accordance with the terms of its sales or lease agreement from a licensed charitable organization within thirty (30) days of the delivery of charitable gaming supplies and equipment shall notify the ***commission***[~~department~~] of the delinquency in writing in a form and manner prescribed by the department. A manufacturer who does not receive payment in full from a distributor within sixty (60) days of the delivery of charitable gaming supplies and equipment shall notify the ***commission***[~~department~~] of the delinquency in writing in a form and manner prescribed by the ***commission***[~~department~~].

(8)[~~(7)~~] A licensed manufacturer shall not sell charitable gaming supplies and equipment to any person not licensed as a distributor in the Commonwealth of Kentucky.

(9)[~~(8)~~] A licensed distributor shall not sell charitable gaming supplies and equipment to any person not licensed as a distributor or a charitable organization in the Commonwealth of Kentucky, unless the organization is exempted from licensure under the provisions of this chapter. ***A licensed distributor may sell, lease or furnish bingo display boards, designators, receptacles or other selection devices, excluding electronic, computer or other technologic aids, to a charitable gaming facility if it notifies the commission, in writing, of its sale, lease or furnishing of such equipment at the time of the transaction.***

(10)[~~(9)~~] A licensed distributor shall not purchase charitable gaming supplies and equipment from any person not licensed as a manufacturer or distributor in the Commonwealth of Kentucky.

(11)[~~(10)~~] No officer, owner, employee, or contractee of a licensed distributor or licensed manufacturer or their affiliates and no member of the immediate family of an owner, officer, employee, or contractee of a licensed distributor or licensed manufacturer or their affiliates, shall, with respect to a licensed charitable organization:

(a) Manage or otherwise be involved in the conduct of charitable gaming;

(b) Provide bookkeeping or other accounting services related to the conduct of charitable gaming;

(c) Handle any moneys generated in the conduct of charitable gaming;

(d) Advise a licensed charitable organization on the expenditure of net receipts;

(e) Provide transportation services in any manner to patrons of a charitable gaming activity;

(f) Provide advertisement or marketing services in any manner to a licensed charitable organization ***without prior approval from the commission***;

(g) Provide, coordinate, or solicit the services of personnel or volunteers in any manner;

(h) Provide training or consulting on the conduct of charitable gaming, except in connection with the use of its own equipment or supplies;

(i) Store its charitable gaming equipment or supplies in or on the premises of a licensed charitable gaming facility***, with the exception of card-minding devices and related systems, bingo display boards, designators, receptacles or other selection devices, and electronic, computer or other technologic aids used in the conduct of charitable gaming, which may be stored on the premises with prior commission approval***;[~~ or~~]

(j) Donate or give any prize to be awarded in the conduct of charitable gaming***; or***

(k) Serve as a director or officer of a licensed charitable organization.

(12) Intentionally making a materially false or misleading statement or providing materially false or misleading information on a license application submitted pursuant to this section shall constitute grounds for denial of the application or revocation of an existing license.

Section 9. KRS 238.535 is amended to read as follows:

(1) Any charitable organization conducting charitable gaming in the Commonwealth of Kentucky shall be licensed by the ***commission***[~~department~~]. A charitable organization qualifying under subsection (8) of this section but not exceeding the limitations provided in this subsection shall be exempt from the licensure requirements when conducting the following charitable gaming activities:

(a) Bingo in which the gross receipts do not exceed a total of twenty-five thousand dollars ($25,000) per year;

(b) A raffle or raffles for which the gross receipts do not exceed twenty-five thousand dollars ($25,000) per year; and

(c) A charity fundraising event or events that do not involve special limited charitable games and the gross gaming receipts for which do not exceed twenty-five thousand dollars ($25,000) per year.

However, at no time shall a charitable organization's total limitations under this subsection exceed twenty-five thousand dollars ($25,000).

(2) Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall notify the ***commission***[~~department~~] in writing, on a simple form issued by the ***commission***[~~department~~], of its intent to engage in exempt charitable gaming and the address at which the gaming is to occur. Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall comply with all other provisions of this chapter relating to the conduct of charitable gaming, except:

(a) Payment of the fee imposed under the provisions of KRS 238.570; and

(b) The quarterly reporting requirements imposed under the provisions of KRS 238.550(5), unless the exempt charitable organization obtains a retroactive license pursuant to subsection (5) of this section.

Before the last day of each year, a charitable organization exempt from licensure under the provisions of subsection (1) of this section shall file with the ***commission***[~~department~~] a financial report detailing the type of gaming activity in which it engaged during that year, the total gross receipts derived from gaming, the amount of charitable gaming expenses paid, the amount of net receipts derived, and the disposition of those net receipts. This report shall be filed on a form issued by the ***commission***[~~department~~]. Upon receipt of the yearly financial report, the ***commission***[~~department~~] shall notify the charitable organization submitting it that its exemption is renewed for the next year. If the ***commission***[~~department~~] determines that information appearing on the financial report renders the charitable organization ineligible to possess an exemption, the ***commission***[~~department~~] shall revoke the exemption. The organization may request an appeal of this revocation pursuant to KRS 238.565. If an exemption is revoked because an organization has exceeded the limit imposed in subsection (1) of this section, the organization shall apply for a retroactive license in accordance with subsection (3) of this section.

(3) If an organization exceeds the limit imposed by any subsection of this section it shall:

(a) Report the amount to the ***commission***[~~department~~]; and

(b) Apply for a retroactive charitable gaming license.

(4) Upon receipt of a report and application for a retroactive charitable gaming license, the ***commission***[~~department~~] shall investigate to determine if the organization is otherwise qualified to hold the license.

(5) If the ***commission***[~~department~~] determines that the applicant is qualified, it shall issue a charitable gaming license retroactive to the date on which the exemption limit was exceeded. The retroactive charitable gaming license shall be issued in the same manner as regular charitable gaming licenses.

(6) If the ***commission***[~~department~~] determines that the applicant is not qualified it shall deny the license and take enforcement action, if appropriate.

(7) Once a retroactive or regular gaming license is issued to an organization, that organization shall not be eligible for exempt status in the future and shall maintain a charitable gaming license if it intends to continue charitable gaming activities, unless the charitable organization has not exceeded the exemption limitations of subsection (1) of this section for a period of ***four (4) consecutive calendar quarters***[~~two (2) years~~] prior to its exemption request.

(8) In order to qualify for licensure, a charitable organization shall:

(a) 1. Possess a tax exempt status under 26 U.S.C. secs. 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19), or be covered under a group ruling issued by the Internal Revenue Service under authority of those sections; or

2. Be organized within the Commonwealth of Kentucky as a common school as defined in KRS 158.030, as an institution of higher education as defined in KRS 164A.305, or as a state college or university as provided for in KRS 164.290;

(b) ***Be***[~~Have been~~] established and continuously operating within the Commonwealth of Kentucky for charitable purposes, other than the conduct of charitable gaming, ***when applying for a license and*** for a period of three (3) years prior to application for licensure;

(c) ***Be***[~~Have been~~] actively engaged in charitable activities ***when applying for a license and*** during the three (3) years immediately prior to application for licensure and be able to demonstrate, to the satisfaction of the ***commission***[~~department~~], reasonable progress in accomplishing its charitable purposes during this period. ***If an applicant applying for initial licensure after the effective date of this Act claims tax-exemption as an organization described in paragraph (a) of this subsection, but has not been recognized by the Internal Revenue Service as tax-exempt for at least three (3) years immediately preceding the application, the three (3) year period shall commence from the date the Internal Revenue Service issues a written determination of tax-exempt status. If an applicant is covered under a group ruling, the three (3) year period shall commence from the date the organization possessing the group ruling first identifies the applicant as among the organizations covered***

under that ruling. The commission may require written confirmation of the group ruling coverage from the organization through which an applicant claims tax-exempt status. As used in this paragraph, "reasonable progress in accomplishing its charitable purposes" means the regular and uninterrupted conduct of activities within the Commonwealth or the expenditure of funds within the Commonwealth to accomplish relief of poverty, advancement of education, protection of health, relief from disease, relief from suffering or distress, protection of the environment, conservation of wildlife, advancement of civic, governmental, or municipal purposes, or advancement of those purposes delineated in KRS 238.505(3). In order to demonstrate reasonable progress in accomplishing its charitable purposes when applying to renew an existing license, a licensed charitable organization shall additionally provide to the ***commission***[~~department~~] a detailed accounting regarding its expenditure of charitable gaming net receipts for the purposes described in this paragraph; and

(d) ***Be established and continuously operating for charitable purposes from an office or place of business in the county in which charitable gaming is to be conducted and*** have maintained ***that***[~~an~~] office or place of business[~~, other than for the conduct of charitable gaming,~~] for one (1) year ***prior to applying for a charitable gaming license***[~~in the county in which charitable gaming is to be conducted~~]. The office or place of business shall be a separate and distinct address and location from that of any other licensee of the ***commission***[~~department~~]; except that up to three (3) licensed charitable organizations may have the same address if they legitimately share office space. For the conduct of a raffle, the county in which charitable gaming is to be conducted shall be the county in which the raffle drawing is to be conducted. However, a charitable organization that has established and maintained an office or place of business in the county for a period of at least one (1) year may hold a raffle drawing in a Kentucky county other than that in which the organization's office or place of business is located if the organization notifies the ***commission***[~~department~~] in writing of the organization's intent to change the drawing's location at least thirty (30) days before the drawing takes place. This written notification may be transmitted in any commercially reasonable means, authorized by the ***commission***[~~department~~], including facsimile and electronic mail. The notification shall set out the place and the county in which the drawing will take place. Approval by the ***commission***[~~department~~] shall be received prior to the conduct of the raffle drawing at the new location. Any charitable organization that was registered with the county clerk to conduct charitable gaming in a county on or before March 31, 1992, shall satisfy this requirement if it maintained a place of business or operation, other than for the conduct of charitable gaming, for one (1) year prior to application in a Kentucky county adjoining the county in which they were registered. Any licensed charitable organization that qualifies to conduct charitable gaming in an adjoining county under this paragraph, shall be permitted to conduct in its county of residence a charity fund raising event.

(9) In applying for a license, the information to be submitted shall include, but not be limited to, the following:

(a) The name and address of the charitable organization;

(b) The date of the charitable organization's establishment in the Commonwealth of Kentucky and the date of establishment in the county in which charitable gaming is to be conducted;

(c) A statement of the charitable purpose or purposes for which the organization was organized. If the charitable organization is incorporated, a copy of the articles of incorporation shall satisfy this requirement;

(d) A statement explaining the organizational structure and management of the organization. For incorporated entities, a copy of the organizations bylaws shall satisfy this requirement;

(e) A detailed accounting of the charitable activities in which the charitable organization has been engaged for the three (3) years preceding application for licensure;

(f) The names, addresses, dates of birth, and Social Security numbers of all officers of the organization***, and, if the organization is a corporation, the names of the current directors of the organization***;

(g) The names, addresses, dates of birth, and Social Security numbers of all employees and members of the charitable organization who will be involved in the management and supervision of charitable gaming. No fewer than two (2) employees or members of the charitable organization who are involved in the management and supervision of charitable gaming, along with the chief executive officer or the director of the applicant organization, shall be designated as chairpersons;

(h) The address of the location at which charitable gaming will be conducted and the name and address of the owner of the property, if it is owned by a person other than the charitable organization;

(i) A copy of the letter or other legal document issued by the Internal Revenue Service to grant tax-exempt status;

(j) A statement signed by the presiding or other responsible officer of the charitable organization attesting that the information submitted in the application is true and correct and that the organization agrees to comply with all applicable laws and administrative regulations regarding charitable gaming;

(k) An agreement that the charitable organization's records may be released by the federal Internal Revenue Service to the ***commission***[~~department~~];[~~ and~~]

(l) ***A statement that the corporation exists in good standing with the Kentucky Secretary of State, if the charitable organization is a corporation; and***

(m) Any other information the ***commission***[~~department~~] deems appropriate.

(10) An organization or a group of individuals that does not meet the licensing requirements of subsection (8) of this section may hold a raffle if the gross receipts do not exceed ***five***[~~one~~] hundred[~~ fifty~~] dollars ***($500)***[~~($150)~~] and all proceeds from the raffle are distributed to a charitable organization. The organization or group of individuals may hold up to three (3) raffles each year, and shall be exempt from complying with the notification, application, and reporting requirements of subsections (2) and (9) of this section.

(11) The ***commission***[~~department~~] may issue a license for a specified period of time, based on the type of charitable gaming involved and the desired duration of the activity.

(12) The ***commission***[~~department~~] shall charge a fee for each license issued and renewed, not to exceed three hundred dollars ($300). Specific fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulations and based on type of license, type of charitable gaming, actual or projected gross receipts, or other applicable factors, or combination of factors.

(13) ***Intentionally making a materially false or misleading statement or providing materially false or misleading information on a license application submitted pursuant to this section shall constitute grounds for denial of the application or revocation of an existing license***[~~(a) A licensed charitable organization may place its charitable gaming license in escrow if:~~

~~1. The licensee notifies the department in writing that it desires to place its license in escrow; and~~

~~2. The license is in good standing and the department has not initiated disciplinary action against the licensee.~~

~~(b) During the escrow period, the licensee shall not engage in charitable gaming, and the escrow period shall not be included in calculating the licensee's retention rate under KRS 238.536.~~

~~(c) A charitable organization may apply for reinstatement of its active license and the license shall be reinstated provided:~~

~~1. The charitable organization continues to qualify for licensure;~~

~~2. The charitable organization has not engaged in charitable gaming during the escrow period; and~~

~~3. The charitable organization pays a reinstatement fee established by the department~~].

Section 10. KRS 238.536 is amended to read as follows:

(1) The net receipts from charitable gaming retained by a charitable organization for the previous calendar year, provided the charitable organization was licensed at the start of the calendar year, shall be equal to or greater than forty percent (40%) of the adjusted gross receipts of the charitable organization for the same period. A licensed charitable organization shall expend net receipts exclusively for purposes consistent with the charitable, religious, educational, literary, civic, fraternal, or patriotic functions or objectives for which the licensed charitable organization received and maintains federal tax-exempt status, or consistent with its status as a common school, an institution of higher education, or a state college or university. No net receipts shall inure to the ***private benefit***[~~benefits~~] or financial gain of an individual. Any charitable organization which permits its license to expire or otherwise lapse shall still be subject to the retention requirement. The following fees and taxes shall be excluded from the calculation of the percentage retained, retroactive to calculations made for calendar year 1999:

(a) All fees paid to the ***commission***[~~department~~] during the calendar year;

(b) Any sales or use taxes levied under KRS Chapter 139 on charitable gaming supplies and equipment that are paid by a licensed charitable organization during the calendar year; and

(c) Any federal excise taxes levied under 26 U.S.C. secs. 4401 and 4411 and paid by a licensed charitable organization during the calendar year.

(2) The following actions shall be imposed on a licensed charitable organization that fails to retain the requisite percentage of adjusted gross receipts required in subsection (1) of this section. The calculation of percentages shall be rounded to the nearest tenth of a percent:

(a) If the percentage retained is between thirty-five percent (35%) and thirty-nine and nine-tenths percent (39.9%), the licensee shall be placed on probation for a period of six (6) months and shall be required to submit to the ***commission***[~~department~~] an acceptable financial plan detailing corrective actions to be taken by the licensee to achieve the forty percent (40%) threshold by the end of the calendar year in which the probation is imposed;

(b) If the percentage retained is between thirty percent (30%) and thirty-four and nine-tenths percent (34.9%), the licensee shall be placed on probation for a period of ***twelve (12) months***[~~one (1) year~~] and shall be required to submit to the ***commission***[~~department~~] a financial plan as described in paragraph (a) of this subsection. The ***commission***[~~department~~] shall conduct a six (6) month review of the charitable gaming activities of a licensee placed on probation pursuant to this subsection to evaluate the licensee's compliance with its financial plan;

(c) If the percentage retained falls between twenty-nine and nine-tenths percent (29.9%) and twenty-five percent (25%), the licensee shall be placed on probation for a period of ***twelve (12) months***[~~one (1) year~~], shall submit to the ***commission***[~~department~~] an acceptable financial plan as described in paragraph (a) of this subsection, and shall participate in a mandatory training program designed by the ***commission***[~~department~~]. The ***commission***[~~department~~] shall conduct a quarterly review of the licensee's activities to evaluate the licensee's compliance with its financial plan and its progress toward achievement of the forty percent (40%) threshold during the probationary period;

(d) If the percentage falls below twenty-five percent (25%) or if the licensee fails to attain the forty percent (40%) threshold for a second consecutive calendar year, the licensee shall have its license suspended for a period of one (1) year; and

(e) For purposes of paragraphs (a), (b), (c), and (d) of this subsection, periods of probation and suspension shall commence, unless appealed, from the date the ***commission***[~~department~~] notifies the licensee of its failure to satisfy the retention requirement for the previous calendar year. If a probation or suspension is appealed, the action shall commence on the date final adjudication of the matter is complete.

(3) Any licensee that has had its license suspended under the provisions of subsection (2)(d) of this section shall be required to submit to the ***commission***[~~department~~] an acceptable financial plan as described in subsection (2)(a) of this section, upon applying for reinstatement of its license. As a condition of reinstatement, the licensee shall be on probation for a period of ***twelve (12) months, shall participate in a mandatory training program designed by the commission,***[~~one (1) year~~] and shall be subject to quarterly review by the ***commission***[~~department~~] in accordance with subsection (2)(c) of this section.

(4) Any licensee that has had its license revoked, has had its renewal application denied, or has had action initiated to revoke, suspend, or deny its license for failure to meet the forty percent (40%) retention threshold prior to July 14, 2000, may petition the ***commission***[~~department~~] for reconsideration of its action or proposed action. Upon petition for reconsideration, the ***commission***[~~department~~] shall apply the standards contained in subsection (2) of this section and shall adjust the license status of the petitioner accordingly. The ***commission***[~~department~~] shall give credit for the amount of time a license has been ***suspended***[~~revoked~~] in assessing penalties under subsection (2) of this section not to exceed the amount of time imposed under the new penalty.

(5) If the commission determines that a licensee has engaged in conduct designed to inaccurately state the amounts of its gross receipts, prizes paid, adjusted gross receipts, authorized charitable gaming expenses or exclusions from expenses, or net receipts for the purpose of overstating its retention percentage and thereby avoiding sanctions imposed by this section, the commission may revoke the license. The stay provided in subsection (4) of Section 17 of this Act shall not apply to administrative actions to revoke a license initiated pursuant to this subsection.

Section 11. KRS 238.540 is amended to read as follows:

(1) Except as provided in KRS 238.535(8)(d), charitable gaming shall be conducted by a licensed charitable organization at the location, date, and time which shall be stated on the license. A license holder shall notify the ***commission***[~~department~~] at least thirty (30) days in advance of its intent to change its location, date, or time and approval by the ***commission***[~~department~~] shall be received by the licensee prior to the conduct of charitable gaming at a new location.

(2) All premises or facilities on which or in which charitable gaming is conducted shall meet all applicable federal, state, and local code requirements relating to life, safety, and health.

(3) A license to conduct charitable gaming shall be prominently displayed on or in the premises where charitable gaming is conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the ***commission***[~~department~~], law enforcement officials, and other interested officials.

(4) At least one (1) chairperson who is listed on the application for licensure shall be ***present*** at each ***bingo session or charity fundraising event***[~~charitable gaming activity~~] conducted by the charitable organization and shall be responsible for the administration and conduct of the charitable gaming activity. No person shall serve as chairperson for more than one (1) charitable organization. The chairperson shall be readily identifiable as the chairperson and shall be present on the premises continuously during the charitable gaming activity. Charitable gaming shall be conducted and administered solely by officers, members, and bona fide employees of the licensed charitable organization. Volunteer personnel, who may or may not be members of the licensed charitable organization, may be utilized if each volunteer is readily identifiable as a volunteer. No person engaged in the conduct and administration of charitable gaming shall receive any compensation for services related to the charitable gaming activities, including tipping. No net receipts derived from charitable gaming shall inure to the private benefit or financial gain of any individual. Any effort or attempt to disguise any other type of compensation or private inurement shall be considered an unauthorized diversion of funds and shall be actionable under KRS 238.995.

(5) No licensed charitable organization shall contract with, or otherwise utilize the services of, any management company, service company, or consultant in managing or conducting any aspect of charitable gaming.

(6) A licensed charitable organization shall not purchase or lease charitable gaming supplies and equipment from any person not licensed as a distributor in the Commonwealth of Kentucky***, except that a licensed charitable organization may lease bingo display boards, designators, receptacles or other selection devices, excluding electronic, computer or other technologic aids, from a charitable gaming facility at which the organization conducts bingo sessions***.

(7) A licensed charitable organization shall not accept any merchandise prizes donated by any owner, officer, employee, or contractee of a licensed manufacturer, distributor, charitable gaming facility, or any of their affiliates, or any member of

their immediate families.

(8) Any advertisement of charitable gaming, regardless of the medium used, shall contain the name of the charitable organization conducting the charitable gaming and its license number. An advertisement for a bingo session or sessions shall not advertise a bingo prize in excess of the *limitations*~~[limitation of five thousand dollars ($5,000) per twenty four (24) hour period]~~ set forth in KRS 238.545~~[(1)]~~.

Section 12. KRS 238.545 is amended to read as follows:

(1) A licensed charitable organization shall be limited by the following:

(a) In the conduct of bingo, to one (1) session per day, two (2) sessions per week, for a period not to exceed five (5) consecutive hours in any day and not to exceed ten (10) total hours per week. No licensed charitable organization shall conduct bingo at more than one (1) location during the same twenty-four (24) hour period.

(b) *The commission shall establish prize payouts for bingo in accordance with the following requirements:*

1. A licensed charitable organization shall not award bingo prizes that have a fair market value in excess of seven thousand five hundred dollars ($7,500) during any one (1) bingo session. This limitation shall include the value of cash door prizes but shall not include the fair market value of noncash door prizes. A single noncash door prize may have a fair market value not in excess of one thousand dollars ($1,000), and a licensed charitable organization may award noncash door prizes having an aggregate fair market value not in excess of one thousand dollars ($1,000) per session. The commission shall promulgate an administrative regulation establishing bingo prize amounts consistent with this subparagraph. However, no licensed charitable organization shall award prizes for bingo that exceed five thousand dollars ($5,000) in fair market value per twenty-four (24) hour period, including the value of door prizes, until the commission promulgates an administrative regulation authorizing a per-session prize amount in excess of this amount consistent with this subparagraph;

2. The per-session bingo prize limitation shall not include the fair market value of any carryover prize awarded at a bingo session by a licensed charitable organization conducting a progressive bingo game. For the purposes of this subparagraph, a carryover prize in a progressive bingo game is a prize awarded to a winner or winners of a bingo game where the game and the prize may carry over or progress from one (1) bingo session to others. No prize awarded to a winner or winners of a single progressive bingo game may exceed ten thousand dollars ($10,000) in fair market value. A licensed charitable organization may conduct only one (1) progressive bingo game at any bingo session, excluding a combined bingo game that may award a carryover prize as authorized under paragraph (d) of this subsection. The commission shall promulgate an administrative regulation establishing progressive bingo prize amounts consistent with this subparagraph;

(c) The commission may approve the use of electronic, computer or other technologic aids in the play of bingo and shall promulgate administrative regulations regarding the use and control of technologic aids. No licensed charitable organization may utilize any electronic, computer or other technologic aid in the conduct of bingo before obtaining commission approval to do so. No licensed manufacturer or distributor may furnish any technologic aid in Kentucky without first obtaining commission approval to do so;

(d) The commission may conduct a combined bingo game and may grant approval for multiple licensed charitable organizations to participate in a combined bingo game. A combined bingo game may include the use of electronic, computer or other technologic aids and may also be conducted as a progressive bingo game. For purposes of this paragraph, a combined bingo game is a bingo game in which players playing bingo at multiple participating locations compete against each other for prizes. No prize awarded in a combined bingo game may exceed fifty thousand dollars ($50,000). Prizes awarded in a combined bingo game shall not be included in the per-session prize limitation set forth in paragraph (b) of this subsection. Gross receipts derived from the conduct of a combined bingo game shall not be subject to the fee required under subsection (1) of Section 18 of this Act. The commission shall promulgate an administrative regulation concerning the conduct of combined bingo games authorized under this paragraph;~~[No licensed charitable organization shall award prizes for bingo that exceed five thousand dollars ($5,000) in fair market value per twenty four (24) hour period, including the value of door prizes.]~~

(e) No person under the age of eighteen (18) shall be permitted to purchase bingo supplies or play bingo. A charitable organization may permit persons under age eighteen (18) to play bingo for noncash prizes if they are accompanied by a parent or legal guardian and only if the value of any noncash prize awarded does not exceed *one hundred*~~[ten]~~ dollars *($100)*~~[($10)]~~; *and*

(f) A licensed charitable organization may provide card-minding devices for use by players of bingo games. If a licensed charitable organization offers card-minding devices for use by players, the devices shall be capable of being used in conjunction with bingo cards or paper sheets at all times. The *commission*~~[department]~~ shall have broad authority to define and regulate the use of card-minding devices and shall promulgate an administrative regulation concerning use and control of them*.*~~[;]~~

(2) (a)~~[(c)]~~Charity game tickets shall be sold only at the address of the location designated on the license to conduct charitable

gaming***, except as otherwise provided in this subsection***;

(b)[~~(d)~~] Charity game tickets may be sold, with prior approval of the ***commission***[~~department~~]:

1. At any authorized special charity fundraising event conducted by a licensed charitable organization at any off-site location; or
2. By a licensed charitable organization possessing a special limited charitable gaming license at any off-site location; ***or***[~~and~~]
3. ***By a licensed charitable organization at its office or place of business in the county where charitable gaming is to be conducted, if different from the location at which the organization conducts bingo sessions or other charitable gaming activities; and***

(c)[~~(e)~~]An automated charity game ticket dispenser may be utilized by a licensed charitable organization, with the prior approval of the ***commission***[~~department, only~~] at the address of the location designated on the license to conduct charitable gaming, ***or at the organization's office or place of business in the county where charitable gaming is to be conducted, if different from the location at which the organization conducts bingo sessions or other charitable gaming activities***[~~and only during bingo sessions~~]. The ***commission***[~~department~~] shall promulgate administrative regulations regulating the use and control of approved automated charity game ticket dispensers***;***[~~.~~]

(d) [~~(2) No prize for an individual charity game ticket shall exceed five hundred ninety-nine dollars ($599) in value, not including the value of cumulative or carryover prizes awarded in seal card games. Cumulative or carryover prizes in seal card games shall not exceed two thousand four hundred dollars ($2,400).~~]Information concerning rules of ***play for charity game tickets***[~~the particular game~~] and ***all*** prizes that are to be awarded in excess of fifty dollars ($50) in each separate package***,*** or series of packages with the same serial number***,*** and all rules governing the handling of cumulative or carryover prizes in seal card games shall be posted prominently in an area where charity game tickets are sold. A legible poster that lists prizes to be awarded, and on which prizes actually awarded are posted at the completion of the sale of each separate package shall satisfy this requirement. Any unclaimed money or prize shall return to the charitable organization. No charity game ticket shall be sold in the Commonwealth of Kentucky that does not conform to the standards for opacity, randomization, minimum information, winner protection, color, and cutting established by the ***commission***[~~department~~]. No person under the age of eighteen (18) shall be permitted to purchase, or open in any manner, a charity game ticket***; and***

(e) The commission may approve the use of electronic, computer or other technologic aid in the play of charity game tickets and shall promulgate administrative regulations regarding the use and control of technologic aids. No licensed charitable organization may utilize any electronic, computer or other technologic aid in the play of charity game tickets before obtaining commission approval to do so. No licensed manufacturer or distributor may furnish any technologic aid in Kentucky without first obtaining commission approval to do so.

(3) Tickets for a raffle shall be sold separately, and each ticket shall constitute a separate and equal chance to win. All raffle tickets shall be sold for the price stated on the ticket, and no person shall be required to purchase more than one (1) ticket or to pay for anything other than a ticket to enter a raffle. Raffle tickets shall have a unique identifier for the ticket holder. Winners shall be drawn at random at a date, time, and place announced in advance or printed on the ticket. All prizes for a raffle shall be identified in advance of the drawing and all prizes identified shall be awarded.

(4) With respect to charity fundraising events, a licensed charitable organization shall be limited as follows:

(a) No licensed charitable organization shall conduct a charity fundraising event or a special limited charity fundraising event unless they have a license for the respective event issued by the ***commission***[~~department~~];

(b) No special license shall be required for any wheel game, such as a cake wheel, that awards only noncash prizes the value of which does not exceed one hundred dollars ($100);

(c) The ***commission***[~~department~~] may grant approval for a licensed charitable organization to play bingo games at a charity fundraising event. Cash prizes for bingo games played during a charity fundraising event may not exceed ***seven***[~~five~~] thousand ***five hundred*** dollars ***($7,500)***[~~($5,000)~~] for the entire event. No person under the age of eighteen (18) shall be permitted to play bingo at a charity fundraising event unless accompanied by a parent or legal guardian***. Bingo at a charity fundraising event shall not include the play of a progressive bingo game as defined by subparagraph 2. of subsection (1)(b) of this section, or a combined bingo game as defined by paragraph (d) of subsection (1) of this section***;

(d) The ***commission***[~~department~~] may grant approval for a licensed charitable organization to play special limited charitable games at a charity fundraising event authorized under this section. The ***commission***[~~department~~] shall not grant approval for the playing of special limited charitable games under the provisions of a charity fundraising event license unless the proposed event meets the definition of a charity fundraising event held for community, social, or entertainment purposes apart from charitable gaming in accordance with KRS 238.505(8); and

(e) Except for state, county, city fairs, and special limited charity fundraising events, a charity fundraising event license issued under this section shall not exceed seventy-two (72) consecutive hours. A licensed charitable organization shall not be eligible for more than four (4) total charity fundraising event licenses per year, including two (2) special limited charity fundraising event licenses. No person under eighteen (18) years of age shall be allowed to play or conduct any special limited charitable game. The ***commission***~~[department]~~ shall have broad authority to regulate the conduct of special limited charity fundraising events in accordance with the provisions of KRS 238.547.

(5) Presentation of false, fraudulent, or altered identification by a minor shall be an affirmative defense in any disciplinary action or prosecution that may result from a violation of age restrictions contained in this section, if the appearance and character of the minor were such that his or her age could not be reasonably ascertained by other means.

Section 13. KRS 238.547 is amended to read as follows:

(1) A licensed charitable organization shall be limited to two (2) special limited charity fundraising event licenses per year, and a special limited charity fundraising event shall be limited to ***two (2) gatherings not to exceed six (6) hours during a twenty-four (24) hour period, for a total of twelve (12) hours for each event***~~[one (1) session not to exceed six (6) hours]~~. A special limited charity fundraising event shall be conducted only between the hours of 12 noon and 1 a.m.

(2) A special limited charity fundraising event may be held:

(a) On or in the premises of a licensed charitable organization;

(b) In a licensed charitable gaming facility, subject to restrictions contained in KRS 238.555(7); or

(c) At an unlicensed facility under the following conditions:

1. An unlicensed facility shall host no more than one (1) special limited charity fundraising event per year;
2. The facility shall be closed to the general public during the conduct of a special limited charity fundraising event or the event shall be held in a separate room or area not accessible to the general public;
3. Equipment used in the conduct of a special limited charity fundraising event shall be removed from the premises within two (2) working days after the event; and
4. The unlicensed facility shall be subject to requirements stipulated in KRS 238.555(3).

(3) No cash shall be used in playing special limited charity games at a special limited charity fundraising event. Games shall be played with chips, scrip, or imitation money which shall be purchased only through a central bank or cashier under the authority of the chairperson designated by the licensed charitable organization conducting the special limited charity fundraising event. No chips, scrip, or imitation money shall be sold at a gaming table or by a dealer.

(4) Chips, scrip, or imitation money may be redeemed for cash or prizes. Prizes to be offered and their fair market values shall be displayed or listed in a conspicuous location within the gaming area. Prizes shall be redeemed directly or through an auction process within twenty-four (24) hours after the conclusion of the event.

Section 14. KRS 238.550 is amended to read as follows:

(1) All adjusted gross receipts from charitable gaming shall be handled only by chairpersons, officers, or employees of the licensed charitable organization.

(2) Within two (2) business days after the completion of a charitable gaming event or session, all gross receipts and adjusted gross receipts shall be deposited into one checking account devoted exclusively to charitable gaming. This checking account shall be designated the "charitable gaming account," and the licensed charitable organization shall maintain its account at a financial institution located in the Commonwealth of Kentucky. No other funds may be deposited or transferred into the charitable gaming account.

(3) All payments for charitable gaming expenses, payments made for prizes purchased, and any charitable donations from charitable gaming receipts shall be made from the charitable gaming account and the payments or donations shall be made only by bona fide officers of the organization by checks having preprinted consecutive numbers and made payable to specific persons or organizations. No check drawn on the charitable gaming account may be made payable to "cash," or "bearer," except that a licensed charitable organization may withdraw start-up funds for a charitable gaming event or session from the charitable gaming account by check made payable to "cash" or "bearer," ***or to the financial institution at which the account is located,*** if these start-up funds are redeposited into the charitable gaming account together with all adjusted gross receipts derived from the particular event or session. Checks shall be imprinted with the words "charitable gaming account" and shall contain the organization's license number on the face of each check. Payments for charitable gaming expenses, prizes purchased, and charitable donations may be made by electronic funds transfer if the payments are made to specific persons or organizations. The ***commission***~~[department]~~ may by administrative regulation adopt alternative reporting requirements for charitable gaming of limited scope or duration, if these requirements are sufficient to ensure accountability for all moneys handled.

(4) A licensed charitable organization shall expend net receipts exclusively for purposes consistent with the charitable, religious, educational, literary, civic, fraternal, or patriotic functions or objectives for which the licensed charitable organization received and maintains federal tax-exempt status, or consistent with its status as a common school, an institution of higher education, or a state college or university. No net receipts shall inure to the private benefit or financial gain of any individual.

(5) ***(a)*** Accurate records and books shall be maintained by each organization exempt from licensure under KRS 238.535(1) and each licensed charitable organization for a period of three (3) years. ***Records and books shall be maintained in accordance with generally accepted standards of accounting. Each organization shall maintain***

original source records in paper format with respect to each charitable gaming activity conducted. Records required under this section shall include, but not be limited to, daily bingo session records, invoices of purchases of charitable gaming supplies and equipment, invoices of noncash prizes purchased, periodic statements from any financial institution where a charitable gaming account is maintained, charitable gaming account deposit records, and records of fund transfers from a charitable gaming account to other accounts maintained by the licensed charitable organization. To facilitate accurate and secure accounting and recordkeeping, licensed charitable organizations shall be required to maintain records in computerized or electronic format within four (4) years of the effective date of this Act, in addition to maintaining original source records in paper format. The commission may promulgate an administrative regulation establishing a phase-in schedule for achieving compliance with this requirement. Commission[~~Department~~] staff shall have access to these records at reasonable times.

(b) Licensed charitable organizations and exempt organizations shall maintain their charitable gaming records at their offices or places of business within the Commonwealth of Kentucky as identified in their license applications or applications for exempt status.

(c) All licensed charitable organizations shall be required to submit reports to the *commission*[~~division~~] at least quarterly. An exempt organization shall submit a yearly financial report in accordance with KRS 238.535(2), and failure to file this report shall constitute grounds for revocation of the organization's exempt status. Failure by a licensed charitable organization to file reports required under this chapter shall constitute grounds for revocation of the organization's license or denial of the organization's application to renew its license in accordance with KRS 238.560(3). Reports filed by a licensed charitable organization shall include, but shall not be limited to, the following information:

1.[~~(a)~~] All gross receipts received from charitable gaming for the reporting period, classified by type of gaming activity;

2.[~~(b)~~] The amounts or values of all prizes paid out during the reporting period, including a listing of all prizes donated having a fair market value in excess of fifty dollars ($50), the names of donors, and the fair market value of the donated prizes;

3.[~~(c)~~] The names and addresses of all persons who are winners of prizes having a fair market value of six hundred dollars ($600) or more;

4.[~~(d)~~] All expenses paid and the names and addresses of all persons to whom expenses were paid;

5.[~~(e)~~] All net receipts retained and the names and addresses of all charitable endeavors that received money from the net receipts; and

6.[~~(f)~~] Any other information the *commission*[~~department~~] deems appropriate.

(d) Intentionally making a materially false or misleading statement, omitting to make a true entry in such records for the purpose of concealing the truth of the information required, or providing materially false or misleading information in reports required pursuant to this section shall constitute grounds for denial of a license application or revocation of an existing license. Failure to maintain adequate records required under this section, or falsifying records required under this section, may subject the license holder to disciplinary action pursuant to subsection (3) of Section 16 of this Act, including the levying of an administrative fine and denial, suspension or revocation of a license.

(e) Within four (4) years of the effective date of this Act, the commission shall require all licensed charitable organizations and organizations exempt from licensure to file required reports in computerized or electronic format. The commission may promulgate an administrative regulation establishing a phase-in schedule for achieving compliance with this requirement.

(6) No licensed charitable organization shall incur charitable gaming expenses, except as provided in this chapter. No licensed charitable organization shall be permitted to expend amounts in excess of prevailing market rates for the following charitable gaming expenses:

(a) Charitable gaming supplies and equipment;

(b) Rent;

(c) Utilities;

(d) Insurance;

(e) Advertising;

(f) Janitorial services;

(g) Bookkeeping and accounting services;

(h) Security services;

(i) Membership dues for its participation in any charitable gaming trade organization; and

(j) Any other expenses the *commission*[~~department~~] may determine by administrative regulation to be legitimate.

(7) No licensed charitable organization shall expend receipts from charitable gaming activities nor incur expenses to form, maintain, or operate as a labor organization.

Section 15. KRS 238.555 is amended to read as follows:

(1) No person shall operate a charitable gaming facility unless the person is licensed under the provisions of this chapter.~~[The department shall charge a license fee not to exceed two thousand five hundred dollars ($2,500). Specific license fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulation and based on the number of sessions which the facility holds per week or other applicable factors or combination of factors.]~~ Charitable gaming may be conducted in a charitable gaming facility only by a licensed charitable organization in accordance with the provisions of this chapter.

(2) In the application process, an applicant for a charitable gaming facility license shall submit the following information:

(a) The address of the facility;

(b) A description of the facility to include square footage of the gaming area, capacity levels, and available parking;

(c) The names, addresses, dates of birth, and Social Security numbers of all individuals employed by or contracted with the applicant to manage the facility or provide other authorized services;

(d) The name, address, date of birth, and Social Security number of any individual who has a ten percent (10%) or greater financial interest in the facility;

(e) A copy of the lease agreement used by the applicant;~~[and]~~

(f) ***Notification to the commission that the facility may provide bingo display boards, designators, receptacles or other selection devices, excluding electronic, computer or other technologic aid, to a licensed charitable organization conducting bingo sessions at the facility; and***

(g) Any other information the ***commission***~~[department]~~ deems appropriate.

(3) No owner, officer, employee, or contractee of a licensed charitable gaming facility or an affiliate, or any member of the immediate family of any officer, employee, or contractee of a licensed charitable gaming facility or an affiliate shall, concerning a lessee:

(a) Manage or otherwise be involved in the conduct of charitable gaming;

(b) Provide bookkeeping or other accounting services related to the conduct of charitable gaming;

(c) Handle any moneys generated in the conduct of charitable gaming;

(d) Advise a licensed charitable organization on the expenditure of net receipts;

(e) Provide transportation services in any manner to patrons of a charitable gaming activity;

(f) Provide advertisement or marketing services in any manner to a licensed charitable organization ***without prior commission approval***;

(g) Provide, coordinate, or solicit the services of personnel or volunteers in any manner;

(h) Influence or require a licensed charitable organization to use a certain distributor or any particular gaming supplies;~~[or]~~

(i) Donate or give any prize to be awarded in the conduct of charitable gaming***; or***

(j) Serve as an officer or director of a licensed charitable organization that is a lessee of the facility.

(4) A licensed charitable gaming facility shall execute a lease agreement with each licensed charitable organization that desires to conduct charitable gaming at the facility. The licensed charitable gaming facility shall agree in the lease to provide gaming space, utilities, insurance for the premises, parking, tables and chairs, and other nongaming equipment necessary for the conduct of charitable gaming, adequate storage space, security, and janitorial services. ***If the facility intends to provide bingo display boards, designators, receptacles or other selection devices, excluding electronic, computer or other technologic aids, it shall agree to do so in the lease.*** The costs of the goods and services provided shall be itemized in the lease. A licensed charitable organization may elect to provide for itself any of the goods and services that a charitable gaming facility is required to provide under this subsection, provided these arrangements are clearly noted in the lease agreement, and provided the total compensation to be paid the charitable gaming facility is reduced commensurate with the cost of the goods and services as itemized in the lease. The amount of rent, goods, and services charged shall be reasonable and shall be based on prevailing market values in the general locality for the goods and services to be provided. Rent shall not be based in whole or in part, on a percentage of gross receipts or net proceeds derived from the conduct of charitable gaming or by reference to the number of people in attendance. The ***commission***~~[department]~~ by administrative regulation may establish standards for the determination of prevailing market values. A copy of each signed lease agreement shall be filed with the ***commission***~~[department]~~. The provisions of this subsection shall apply to any lease agreement for a facility where charitable gaming is to be conducted, whether or not it is with a licensed charitable gaming facility.

(5) ***A licensed charitable gaming facility shall host no more than twenty (20) bingo sessions per week. A licensed charitable gaming facility may elect to host no more than ten (10) bingo sessions per week provided it notifies the commission of this election at the time of initial application for a license or at the time it submits an application to***

renew its existing license. Licensed charitable gaming facilities electing to host no more than ten (10) bingo sessions per week shall be charged a license fee of one thousand two hundred fifty dollars ($1,250). Licensed charitable gaming facilities hosting more than ten (10) bingo sessions per week shall be charged a license fee of two thousand five hundred dollars ($2,500)~~[The number of bingo sessions conducted at a charitable gaming facility shall be limited to the following:~~

~~(a) No more than eighteen (18) sessions per week if the charitable gaming facility is located in a city of the first class, in a city of the second class, in an urban-county or charter county government, or in a county containing a city of the first class or second class;~~

~~(b) No more than eight (8) sessions per week if the charitable gaming facility is located in a city of the third class, fourth class, fifth class, or sixth class, or in a county that does not contain a city of the first class or second class]~~.

(6) A licensed charitable gaming facility shall report at least quarterly to the ***commission***~~[department]~~ and shall provide any information concerning its operation that the ***commission***~~[department]~~ may require. ***Intentionally making a false or misleading statement in reports required under this subsection, omitting to make a true entry in a report for the purpose of concealing the truth of the information required, or providing false or misleading information in a report, shall subject the license holder to disciplinary action pursuant to subsection (3) of Section 16 of this Act, including the levying of an administrative fine and denial, suspension or revocation of a license.***

(7) A charity fundraising event at which special limited charitable games are played may be conducted at a licensed charitable gaming facility, but no licensed charitable gaming facility shall be permitted to hold more than one (1) such event per week or more than seven (7) per year.

(8) A licensed charitable gaming facility shall conspicuously display a sign bearing the name and the license number of the charitable organization that is conducting charitable gaming activities in the facility.

(9) The license to operate the charitable gaming facility shall be prominently displayed on or in the premises where charitable gaming activity is being conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the ***commission***~~[department]~~, law enforcement officials, and other interested officials.

(10) Intentionally making a materially false or misleading statement or providing materially false or misleading information on a license application submitted pursuant to this section shall constitute grounds for denial of the application or revocation of an existing license.

Section 16. KRS 238.560 is amended to read as follows:

(1) The ***commission***~~[department]~~ may investigate allegations of wrongdoing upon complaint or upon its own volition. The ***commission***~~[department]~~ by administrative regulation shall establish procedures for receiving and investigating complaints in an expeditious manner.

(2) In carrying out its enforcement responsibilities, the ***commission***~~[department]~~ may:

(a) Inspect and examine all premises in which or on which charitable gaming is conducted or charitable gaming supplies or equipment are manufactured or distributed;

(b) Seize and remove from premises and impound charitable gaming supplies and equipment for the purposes of examination and inspection pursuant to an appropriate court order;

(c) Demand access to, inspect, and audit books and records of licensees for the purpose of determining compliance with laws and administrative regulations relative to charitable gaming; and

(d) Conduct in-depth audits and investigations, when warranted.

(3) The ***commission***~~[department]~~ may take appropriate administrative action against any person licensed under this chapter for any violation of the provisions of this chapter or administrative regulations promulgated thereunder. The ***commission***~~[department]~~ may deny a license, suspend or revoke a license, issue a cease and desist order, place a license holder on probation, issue a letter of reprimand, and levy a fine. An administrative fine shall not exceed one thousand dollars ($1,000) for each offense. The ***commission***~~[department]~~ may deny the issuance of a license or a license renewal if the applicant or licensee has failed to pay a fine levied by the ***commission***~~[department]~~.~~[The department shall by administrative regulation classify types of offenses and the recommended administrative action.]~~ The type of action to be taken shall be based on the history of previous violations and the nature, severity, and frequency of the offense. Administrative action authorized in this section shall be in addition to any criminal penalties provided in this chapter or under other provisions of law.

(4) The ***commission***~~[department]~~ may reinstate a license that has been revoked at any time after two (2) years from the date of revocation. A license may be reinstated only upon a finding that the violations for which the license was revoked have been corrected***, or upon a finding that the license holder has established an organizational structure, internal controls, checks and balances, and regularity of procedures sufficient to demonstrate its ability and willingness to operate in conformity with the requirements of this chapter***.

(5) All departments, divisions, boards, agencies, officers, and institutions of the Commonwealth of Kentucky and all subdivisions thereof, in particular local law enforcement entities, shall cooperate with the ***commission***~~[department]~~ in carrying out its enforcement responsibilities.

(6) The ***commission***[~~department~~] shall report any activity or action which would constitute a criminal offense to the appropriate authorities in the county where the activity or action occurred and to the Attorney General.

Section 17. KRS 238.565 is amended to read as follows:

(1) A license holder may appeal any administrative action taken under KRS 238.560. A license holder shall be notified in writing of any action to be taken against him. The notification may be delivered in person or mailed by certified mail, return receipt requested, to the last known address of the license holder. Service of notification of administrative action, whether by hand delivery or by certified mail, shall be deemed complete if the license holder fails or refuses to accept delivery. For service by hand delivery, notification shall be deemed received upon acceptance of delivery or upon failure or refusal to accept delivery, and the person affecting service on behalf of the ***commission***[~~department~~] shall record the fact of the failure or refusal. For service by certified mail, the notification of administrative action shall be deemed received when the license holder accepts delivery or fails or refuses to accept delivery at the last known address. The notification shall specify the charges against the license holder, specify the proposed administrative sanction, and advise him of his right to appeal the decision within ten (10) days of the date of receipt of the notification. ***If the license holder against whom administrative action is proposed does not request an appeal of the action, the commission shall enter a final order imposing the administrative action.***

(2) Upon receipt of an appeal ***initiated pursuant to this section***, the ***commission***[~~department~~] shall schedule the matter for an administrative hearing that shall be conducted in accordance with KRS Chapter 13B.

(3) Any provisions of KRS Chapter 13B notwithstanding, within twenty (20) days after the conclusion of a hearing, the hearing officer shall prepare and present to the ***commission***[~~commissioner~~] a recommended order based on findings of fact and conclusions of law. ***Parties to the administrative action must file exceptions to the hearing officer's recommendations in order to preserve for review any perceived error in the hearing officer's findings, conclusions and recommended order, and any exceptions shall be filed with the executive director within the time limit set forth in KRS 13B.110(4).*** Within ***forty-five (45)***[~~thirty (30)~~] days of receipt of the recommended order, the ***commission***[~~commissioner~~] shall affirm, reject, or modify, in whole or in part, the recommended order and shall issue a final order. ***For purposes of rendering final orders pursuant to this section, the chairman of the board of commissioners shall appoint a three (3) member panel of commissioners to review a hearing officer's findings, conclusions, recommended order and any exceptions, and issue a final order thereon. Decisions to affirm, reject or modify the recommended order shall be rendered upon majority vote of the reviewing panel. The panel's decision shall be the commission's final order, and the final order shall be issued by the executive director. Review of a hearing officer's findings, conclusions and recommended order shall be limited solely to consideration of the record established at the administrative hearing.*** The final order shall be the final administrative action on the matter and a copy of the final order shall be mailed to the license holder, by certified mail, return receipt requested.

(4) Any administrative action taken under this section shall, upon appeal, be stayed until a final order is issued, with the exception of ***revocations initiated pursuant to subsection (5) of Section 10 of this Act and*** a summary suspension. The ***commission***[~~department~~] may issue an emergency order pursuant to KRS 13B.125 to summarily suspend a license upon finding that continued operation of the license holder pending a hearing would constitute a threat to the public health, safety, or welfare.

(5) A final order of the ***commission issued in an administrative action commenced pursuant to this section***[~~commissioner~~] may be appealed to Franklin Circuit Court in accordance with KRS Chapter 13B.[~~ If the license holder against whom administrative action is proposed does not request an appeal of the action, the department shall enter a final order imposing the proposed administrative action.~~]

Section 18. KRS 238.570 is amended to read as follows:

(1) A fee is imposed on charitable gaming in the amount of four-tenths of one percent (0.4%) of gross receipts derived from all charitable gaming conducted by charitable organizations required to be licensed in the Commonwealth of Kentucky. Each licensed charitable organization shall remit to the ***commission***[~~department~~] all moneys due on a quarterly basis. Failure by a licensed charitable organization to timely remit the fee required under this subsection upon notice of delinquency shall constitute grounds for disciplinary action in accordance with KRS 238.560.

(2) The charitable gaming regulatory account is hereby created as a revolving account within the agency revenue fund and under the control of the Public Protection and Regulation Cabinet. All revenues generated from the fee levied in subsection (1) of this section from license fees and from administrative fines imposed by the ***commission***[~~department~~] shall be deposited in this account. Moneys in this account shall be expended by the ***commission***[~~department~~] only in the administration and enforcement of provisions of this chapter. No later than July of each odd-numbered year, the ***commission***[~~department~~] shall assess the amount of funds raised by all fees levied in this chapter and shall make recommendations to the Legislative Research Commission concerning legislative amendments to adjust fee rates as indicated by the assessment.

(3) If the provision of subsection (1) of this section that imposes a fee of four-tenths of one percent (0.4%) of all gross receipts derived from all charitable gaming conducted by licensed charitable organizations is declared unconstitutional in a final decision of the highest appellate court of the Commonwealth of Kentucky, for the privilege of conducting charitable gaming in the Commonwealth of Kentucky, there is hereby levied upon the use, sale, rental, lease, or distribution by sale

or by gift of charitable gaming supplies and equipment a fee of ten percent (10%) of the value of all supplies and equipment used, sold, rented, leased, or otherwise distributed by a licensed distributor to any licensed charitable organization in the Commonwealth of Kentucky.

(a) Every distributor of charitable gaming supplies and equipment shall pay and report the fee levied pursuant to this subsection on or before the twentieth day of the calendar month next succeeding the month in which possession of the charitable gaming supplies and equipment is transferred from the distributor to the licensed charitable organization, in accordance with administrative regulations promulgated by the ***commission***[~~department~~].

(b) The ***commission***[~~department~~] may require a bond from distributors in accordance with the administrative regulations promulgated by the ***commission***[~~department~~].

(4) If the alternative license fee schedule as provided in subsection (3) of this section is activated due to a final decision of the highest appellate court in the Commonwealth of Kentucky as provided in subsection (3) of this section, the distributor's license fee as provided in KRS 238.530(1) shall become inapplicable.

Section 19. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
    1. The Governor.
    2. Lieutenant Governor.
    3. Department of State.
        (a) Secretary of State.
        (b) Board of Elections.
        (c) Registry of Election Finance.
    4. Department of Law.
        (a) Attorney General.
    5. Department of the Treasury.
        (a) Treasurer.
    6. Department of Agriculture.
        (a) Commissioner of Agriculture.
        (b) Kentucky Council on Agriculture.
    7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:
    1. Justice Cabinet:
        (a) Department of State Police.
        (b) Department of Criminal Justice Training.
        (c) Department of Corrections.
        (d) Department of Juvenile Justice.
        (e) Office of the Secretary.
        (f) Offices of the Deputy Secretaries.
        (g) Office of General Counsel.
        (h) Division of Kentucky State Medical Examiners Office.
        (i) Parole Board.
        (j) Kentucky State Corrections Commission.
        (k) Commission on Correction and Community Service.
    2. Education, Arts, and Humanities Cabinet:
        (a) Department of Education.
            (1) Kentucky Board of Education.

(b) Department for Libraries and Archives.
(c) Kentucky Arts Council.
(d) Kentucky Educational Television.
(e) Kentucky Historical Society.
(f) Kentucky Teachers' Retirement System Board of Trustees.
(g) Kentucky Center for the Arts.
(h) Kentucky Craft Marketing Program.
(i) Kentucky Commission on the Deaf and Hard of Hearing.
(j) Governor's Scholars Program.
(k) Governor's School for the Arts.
(l) Operations and Development Office.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.
(o) Board of Directors for the Center for School Safety.

3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Information Services.
(h) Office of Inspector General.

4. Transportation Cabinet:
(a) Department of Highways.
  1. Office of Program Planning and Management.
  2. Office of Project Development.
  3. Office of Construction and Operations.
  4. Office of Intermodal Programs.
  5. Highway District Offices One through Twelve.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Department of Human Resources Management.
(g) Office of the Secretary.
(h) Office of General Counsel and Legislative Affairs.
(i) Office of Public Affairs.
(j) Office of Transportation Delivery.
(k) Office of Minority Affairs.
(l) Office of Policy and Budget.
(m) Office of Technology.
(n) Office of Quality.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department for Business Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.

(e) Department for Coal County Development.
(f) Tobacco Research Board.
(g) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.
(m) Office of Petroleum Storage Tank Environmental Assurance Fund.
(n) [~~Department of~~]Charitable Gaming ***Regulatory Commission***.
(o) Mine Safety Review Commission.

7. Cabinet for Families and Children:
(a) Department for Community Based Services.
(b) Department for Disability Determination Services.
(c) Public Assistance Appeals Board.
(d) Office of the Secretary.
    (1) Kentucky Commission on Community Volunteerism and Service.
(e) Office of the General Counsel.
(f) Office of Program Support.
(g) Office of Family Resource and Youth Services Centers.
(h) Office of Technology Services.
(i) Office of the Ombudsman.
(j) Office of Performance Enhancement.

8. Cabinet for Health Services.
(a) Department for Public Health.
(b) Department for Medicaid Services.
(c) Department for Mental Health and Mental Retardation Services.
(d) Kentucky Commission on Children with Special Health Care Needs.
(e) Office of Certificate of Need.
(f) Office of the Secretary.
(g) Office of the General Counsel.
(h) Office of Program Support.
(i) Office of the Inspector General.
(j) Office of Aging Services.

9. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management.
(d) Office of the Controller.
(e) Department for Administration.

(f) Department of Facilities Management.
(g) State Property and Buildings Commission.
(h) Kentucky Pollution Abatement Authority.
(i) Kentucky Savings Bond Authority.
(j) Deferred Compensation Systems.
(k) Office of Equal Employment Opportunity Contract Compliance.
(l) Office of Capital Plaza Operations.
(m) County Officials Compensation Board.
(n) Kentucky Employees Retirement Systems.
(o) Commonwealth Credit Union.
(p) State Investment Commission.
(q) Kentucky Housing Corporation.
(r) Governmental Services Center.
(s) Kentucky Local Correctional Facilities Construction Authority.
(t) Kentucky Turnpike Authority.
(u) Historic Properties Advisory Commission.
(v) Kentucky Tobacco Settlement Trust Corporation.
(w) Eastern Kentucky Exposition Center Corporation.

10. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Information Technology.
(m) Office of Labor-Management Relations and Mediation.
(n) Office of General Counsel.
(o) Workers' Compensation Funding Commission.
(p) Employers Mutual Insurance Authority.

11. Revenue Cabinet:
(a) Department of Property Valuation.
(b) Department of Tax Administration.
(c) Office of Financial and Administrative Services.
(d) Department of Law.
(e) Department of Information Technology.
(f) Office of Taxpayer Ombudsman.

12. Tourism Development Cabinet:
(a) Department of Travel.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.

        (f) Office of Administrative Services.
        (g) Office of General Counsel.
        (h) Tourism Development Finance Authority.
    13. Cabinet for Workforce Development:
        (a) Department for Adult Education and Literacy.
        (b) Department for Technical Education.
        (c) Department of Vocational Rehabilitation.
        (d) Department for the Blind.
        (e) Department for Employment Services.
        (f) State Board for Adult and Technical Education.
        (g) The State Board for Proprietary Education.
        (h) The Foundation for Adult Education.
        (i) Department for Training and Reemployment.
        (j) Office of General Counsel.
        (k) Office of Communication Services.
        (l) Office of Development and Industry Relations.
        (m) Office of Workforce Analysis and Research.
        (n) Office for Administrative Services.
        (o) Office for Policy and Budget.
        (p) Office of Personnel Services.
        (q) Unemployment Insurance Commission.
    14. Personnel Cabinet:
        (a) Office of Administrative and Legal Services.
        (b) Department for Personnel Administration.
        (c) Department for Employee Relations.
        (d) Kentucky Public Employees Deferred Compensation Authority.
        (e) Kentucky Kare.
        (f) Division of Performance Management.
        (g) Division of Employee Records.
        (h) Division of Staffing Services.
        (i) Division of Classification and Compensation.
        (j) Division of Employee Benefits.
        (k) Division of Communications and Recognition.
        (l) Office of Public Employee Health Insurance.

III. Other departments headed by appointed officers:
    1. Department of Military Affairs.
    2. Council on Postsecondary Education.
    3. Department for Local Government.
    4. Kentucky Commission on Human Rights.
    5. Kentucky Commission on Women.
    6. Department of Veterans' Affairs.
    7. Kentucky Commission on Military Affairs.
    8. The Governor's Office for Technology.
    9. Commission on Small Business Advocacy.
    10. Education Professional Standards Board.

Section 20. KRS 15.380 is amended to read as follows:

(1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:

    (a) State Police officers, but for the commissioner of the State Police;

(b) City, county, and urban-county police officers;

(c) Deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);

(d) State or public university safety and security officers appointed pursuant to KRS 164.950;

(e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;

(f) Airport safety and security officers appointed under KRS 183.880;

(g) Department of Alcoholic Beverage Control field representatives and investigators appointed under KRS 241.090; and

(h) Division of Insurance Fraud Investigation investigators appointed under KRS 304.47-040.

(2) The requirements of KRS 15.380 to 15.402 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Department of Personnel for job specifications.

(3) Additional training in excess of the standards set forth in KRS 15.380 to 15.402 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.

(4) The following officers may, upon request of the employing agency, be certified by the council:

(a) Deputy coroners;

(b) Deputy constables;

(c) Deputy jailers;

(d) Deputy sheriffs under KRS 70.045 and 70.263(3);

(e) Officers appointed under KRS 61.360;

(f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;

(g) Private security officers;

(h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080; and

(i) Investigators employed by the ~~[Division of]~~Charitable Gaming ***Regulatory Commission*** in accordance with KRS 238.510.

(5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:

(a) Sheriffs;

(b) Coroners;

(c) Constables;

(d) Jailers;

(e) Racing Commission security officers employed under KRS 230.240; and

(f) Commissioner of the State Police; and

(6) Federal peace officers cannot be certified under KRS 15.380 to 15.402.

Section 21. KRS 15.728 is amended to read as follows:

All law enforcement agencies and investigative bodies shall notify the~~[Department of]~~ Charitable Gaming ***Regulatory Commission*** of any investigation or prosecution of any violation of the charitable gaming laws as soon as reasonably possible after commencing the investigation or prosecution and shall coordinate any investigation with the ***commission***~~[department]~~.

HB 804, AN ACT relating to charitable gaming.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 238.535 is amended to read as follows:

(1) Any charitable organization conducting charitable gaming in the Commonwealth of Kentucky shall be licensed by the department. A charitable organization qualifying under subsection (8) of this section but not exceeding the limitations provided in this subsection shall be exempt from the licensure requirements when conducting the following charitable gaming activities:

(a) Bingo in which the gross receipts do not exceed a total of twenty-five thousand dollars ($25,000) per year;

(b) A raffle or raffles for which the gross receipts do not exceed twenty-five thousand dollars ($25,000) per year; and

(c) A charity fundraising event or events that do not involve special limited charitable games and the gross gaming receipts for which do not exceed twenty-five thousand dollars ($25,000) per year.

However, at no time shall a charitable organization's total limitations under this subsection exceed twenty-five thousand dollars ($25,000).

(2) Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall notify the department in writing, on a simple form issued by the department, of its intent to engage in exempt charitable gaming and the address at which the gaming is to occur. Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall comply with all other provisions of this chapter relating to the conduct of charitable gaming, except:

(a) Payment of the fee imposed under the provisions of KRS 238.570; and

(b) The quarterly reporting requirements imposed under the provisions of KRS 238.550(5), unless the exempt charitable organization obtains a retroactive license pursuant to subsection (5) of this section.

Before the last day of each year, a charitable organization exempt from licensure under the provisions of subsection (1) of this section shall file with the department a financial report detailing the type of gaming activity in which it engaged during that year, the total gross receipts derived from gaming, the amount of charitable gaming expenses paid, the amount of net receipts derived, and the disposition of those net receipts. This report shall be filed on a form issued by the department. Upon receipt of the yearly financial report, the department shall notify the charitable organization submitting it that its exemption is renewed for the next year. If the department determines that information appearing on the financial report renders the charitable organization ineligible to possess an exemption, the department shall revoke the exemption. The organization may request an appeal of this revocation pursuant to KRS 238.565. If an exemption is revoked because an organization has exceeded the limit imposed in subsection (1) of this section, the organization shall apply for a retroactive license in accordance with subsection (3) of this section.

(3) If an organization exceeds the limit imposed by any subsection of this section it shall:

(a) Report the amount to the department; and

(b) Apply for a retroactive charitable gaming license.

(4) Upon receipt of a report and application for a retroactive charitable gaming license, the department shall investigate to determine if the organization is otherwise qualified to hold the license.

(5) If the department determines that the applicant is qualified, it shall issue a charitable gaming license retroactive to the date on which the exemption limit was exceeded. The retroactive charitable gaming license shall be issued in the same manner as regular charitable gaming licenses.

(6) If the department determines that the applicant is not qualified it shall deny the license and take enforcement action, if appropriate.

(7) Once a retroactive or regular gaming license is issued to an organization, that organization shall not be eligible for exempt status in the future and shall maintain a charitable gaming license if it intends to continue charitable gaming activities, unless the charitable organization has not exceeded the exemption limitations of subsection (1) of this section for a period of two (2) years prior to its exemption request.

(8) In order to qualify for licensure, a charitable organization shall:

(a) 1. Possess a tax exempt status under 26 U.S.C. secs. 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19), or be covered under a group ruling issued by the Internal Revenue Service under authority of those sections; or

2. Be organized within the Commonwealth of Kentucky as a common school as defined in KRS 158.030, as an institution of higher education as defined in KRS 164A.305, or as a state college or university as provided for in KRS 164.290;

(b) Have been established ***by virtue of having an office physically located in the Commonwealth of Kentucky*** and continuously operating within the Commonwealth of Kentucky for charitable purposes, other than the conduct of charitable gaming, for a period of three (3) years prior to application for licensure***. However, a nationally recognized charitable organization with a chapter physically located outside the Commonwealth of Kentucky that can document that it has been providing charitable services to residents of the Commonwealth of Kentucky, other than the conduct of charitable gaming, for a period of three (3) years prior to application for licensure shall be deemed to have met the requirements of this paragraph***;

(c) Have been actively engaged in charitable activities during the three (3) years immediately prior to application for licensure and be able to demonstrate, to the satisfaction of the department, reasonable progress in accomplishing its charitable purposes during this period. As used in this paragraph, "reasonable progress in accomplishing its charitable purposes" means the regular and uninterrupted conduct of activities within the Commonwealth or the expenditure of funds within the Commonwealth to accomplish relief of poverty, advancement of education, protection of health, relief from disease, relief from suffering or distress, protection of the environment, conservation of wildlife, advancement of civic, governmental, or municipal purposes, or advancement of those purposes delineated in KRS 238.505(3). In order to demonstrate reasonable progress in accomplishing its charitable purposes when applying to renew an existing license, a licensed charitable organization shall additionally provide to the department a detailed accounting regarding its expenditure of charitable gaming net receipts for the purposes described in this paragraph; and

(d) Have maintained an office or place of business, other than for the conduct of charitable gaming, for one (1) year in the county in which charitable gaming is to be conducted. The office or place of business shall be a separate and distinct address and location from that of any other licensee of the department; except that up to three (3) licensed charitable organizations may have the same address if they legitimately share office space. For the conduct of a raffle, the county in which charitable gaming is to be conducted shall be the county in which the raffle drawing is to be conducted. However, a charitable organization that has established and maintained an office or place of business in the county for a period of at least one (1) year may hold a raffle drawing in a Kentucky county other than that in which the organization's office or place of business is located if the organization notifies the department in writing of the organization's intent to change the drawing's location at least thirty (30) days before the drawing takes place. This written notification may be transmitted in any commercially reasonable means, authorized by the department, including facsimile and electronic mail. The notification shall set out the place and the county in which the drawing will take place. Approval by the department shall be received prior to the conduct of the raffle drawing at the new location. Any charitable organization that was registered with the county clerk to conduct charitable gaming in a county on or before March 31, 1992, shall satisfy this requirement if it maintained a place of business or operation, other than for the conduct of charitable gaming, for one (1) year prior to application in a Kentucky county adjoining the county in which they were registered. Any licensed charitable organization that qualifies to conduct charitable gaming in an adjoining county under this paragraph, shall be permitted to conduct in its county of residence a charity fund raising event.

(9) In applying for a license, the information to be submitted shall include, but not be limited to, the following:

(a) The name and address of the charitable organization;

(b) The date of the charitable organization's establishment in the Commonwealth of Kentucky and the date of establishment in the county in which charitable gaming is to be conducted;

(c) A statement of the charitable purpose or purposes for which the organization was organized. If the charitable organization is incorporated, a copy of the articles of incorporation shall satisfy this requirement;

(d) A statement explaining the organizational structure and management of the organization. For incorporated entities, a copy of the organizations bylaws shall satisfy this requirement;

(e) A detailed accounting of the charitable activities in which the charitable organization has been engaged for the three (3) years preceding application for licensure;

(f) The names, addresses, dates of birth, and Social Security numbers of all officers of the organization;

(g) The names, addresses, dates of birth, and Social Security numbers of all employees and members of the charitable organization who will be involved in the management and supervision of charitable gaming. No fewer than two (2) employees or members of the charitable organization who are involved in the management and supervision of charitable gaming, along with the chief executive officer or the director of the applicant organization, shall be designated as chairpersons;

(h) The address of the location at which charitable gaming will be conducted and the name and address of the owner of the property, if it is owned by a person other than the charitable organization;

(i) A copy of the letter or other legal document issued by the Internal Revenue Service to grant tax-exempt status;

(j) A statement signed by the presiding or other responsible officer of the charitable organization attesting that the information submitted in the application is true and correct and that the organization agrees to comply with all applicable laws and administrative regulations regarding charitable gaming;

(k) An agreement that the charitable organization's records may be released by the federal Internal Revenue Service to the department; and

(l) Any other information the department deems appropriate.

(10) An organization or a group of individuals that does not meet the licensing requirements of subsection (8) of this section may hold a raffle if the gross receipts do not exceed one hundred fifty dollars ($150) and all proceeds from the raffle are distributed to a charitable organization. The organization or group of individuals may hold up to three (3) raffles each year, and shall be exempt from complying with the notification, application, and reporting requirements of subsections (2) and (9) of this section.

(11) The department may issue a license for a specified period of time, based on the type of charitable gaming involved and the desired duration of the activity.

(12) The department shall charge a fee for each license issued and renewed, not to exceed three hundred dollars ($300). Specific fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulations and based on type of license, type of charitable gaming, actual or projected gross receipts, or other applicable factors, or combination of factors.

(13) (a) A licensed charitable organization may place its charitable gaming license in escrow if:

1. The licensee notifies the department in writing that it desires to place its license in escrow; and

2. The license is in good standing and the department has not initiated disciplinary action against the licensee.

(b) During the escrow period, the licensee shall not engage in charitable gaming, and the escrow period shall not be included in calculating the licensee's retention rate under KRS 238.536.

(c) A charitable organization may apply for reinstatement of its active license and the license shall be reinstated provided:

1. The charitable organization continues to qualify for licensure;
2. The charitable organization has not engaged in charitable gaming during the escrow period; and
3. The charitable organization pays a reinstatement fee established by the department.

The Committee on Judiciary reported **HB 270, HB 475,** with Committee Substitute attached thereto, **HB 652,** with Committee Substitute attached thereto, **HB 688,** with Committee Substitute and Committee Amendment attached thereto, **HJR 61, HCR 182, SB 25,** with Committee Substitute attached thereto, and **SB 170,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 270, AN ACT relating to real property matters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 382.135 is amended to read as follows:

(1) In addition to any other requirement imposed by law, a deed to real property shall contain the following:

(a) The mailing addresses of the grantor and grantee;

(b) A statement of the full consideration; and

(c) In the case of a transfer other than by gift, or with nominal or no consideration a sworn, notarized certificate signed by the grantor or his agent and the grantee or his agent, or the parent or guardian of a person under eighteen (18) years old, that the consideration reflected in the deed is the full consideration paid for the property; or

(d) In the case of a transfer either by gift or with nominal or no consideration, a sworn, notarized certificate signed by the grantor or his agent and the grantee or his agent, or the parent or guardian of a person under eighteen (18) years old, stating that the transfer is by gift and setting forth the estimated fair cash value of the property.

(2) The deed filing requirements listed in subsection (1)(b) and (c) of this section shall not apply to:

(a) Deeds which only convey utility easements;

(b) Deeds which transfer property through a court action pursuant to a divorce proceeding;

(c) Deeds which convey rights-of-way that involve governmental agencies;

(d) Deeds which convey cemetery lots; and

(e) Deeds which correct errors in previous deeds conveying the same property from the same grantor to the same grantee.

(3) In the case of an exchange of properties, the fair cash value of the property being exchanged shall be stated in the body of the deed.

(4) In the event of a transfer of property by will or under the laws of intestate succession, the personal representative of the estate***, if one has been appointed, or the beneficiary, devisee, or heir at law***, prior to closing out the estate, shall file an affidavit with the ***property valuation administrator***[~~county clerk~~] of each county in which any of the property is located, which shall contain the following:

(a) The names and addresses of the persons receiving each property passing by will or intestate succession; and

(b) The full or fair market value of each property as estimated or established for any purpose in the handling of the estate, or a statement that no such values were estimated or established.

(5) No county clerk or deputy clerk shall lodge for record, and no county clerk or deputy shall receive and permit to be lodged for record, any deed that does not comply with the provisions of this section.

HB 475, AN ACT relating to civil actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 411.095 is amended to read as follows:

(1) An adult or emancipated minor who damages, destroys, or takes possession of any goods, wares, or merchandise, stored, displayed, or offered for sale by any wholesale or retail store or other mercantile establishment, or who alters the price indicia of the merchandise, in violation of the provisions of KRS Chapters 512 and 514, without having paid the purchase price thereof, shall be civilly liable to the owner for actual damages[~~, if any, and for a penalty to the owner in the amount of the retail value of the merchandise not to exceed five hundred dollars ($500), plus an additional penalty to the owner of~~

~~not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250)~~].

(2) The custodial parents or legal guardian having custody of an unemancipated minor who damages, destroys, or takes possession of any goods, wares, or merchandise, stored, displayed, or offered for sale by any wholesale or retail store or other mercantile establishment, or who alters the price indicia of the merchandise, which would be a public offense, without having paid the purchase price thereof, shall be civilly liable to the owner for actual damages[~~, if any, and for a penalty to the owner in the amount of the retail value of the merchandise not to exceed five hundred dollars ($500), plus an additional penalty to the owner of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250)~~]. For purposes of this subsection, liability shall not be imposed upon any governmental entity, private agency, or foster parents assigned responsibility for the minor child pursuant to a court order or action of the Cabinet for Families and Children, or any agency thereunder.

(3) For the purposes of this section, "owner" shall include any agent or employee of the owner.

(4) ***If, prior to the commencement of a civil action under this section, a criminal charge arising from a course of conduct described in subsection (1) or (2) of this section is brought against a person described in those subsections, the civil action may not be maintained if the goods, wares, or merchandise that have been allegedly damaged, destroyed, or otherwise wrongfully possessed are returned to the owner in substantially the same condition in which each existed prior to the alleged damage, destruction, or wrongful possession. If a defendant is convicted of a criminal charge arising from a course of conduct described in subsection (1) or (2) of this section, an action under this section may not be maintained if restitution ordered under that conviction or plea agreement has made the owner whole. However,*** a conviction of an offense under KRS Chapters 512 or 514 is not a condition precedent to ***maintain an***[~~the maintenance of a civil~~] action under this section.

(5) Civil liability under this section shall not be limited by any other law that limits liability of parents of minor children.

(6) An action for recovery of damages[~~, or penalty, or both,~~] and costs under this section may be brought in any court of competent jurisdiction, including the small claims division of District Court, if the total amount sought does not exceed the jurisdictional limit of the respective court.

(7) The fact that an owner has a right to bring an action against any individual as provided in this section shall not limit the right of the owner to demand, in writing, that a person who is liable under this section remit the amount of the ***actual damages***[~~claim~~] prior to the commencement of any legal action.

(8) Judgments, but not claims, arising under this section may be assigned.

(9) In addition to any civil damages[~~ or penalties, or both, which may be~~] recovered under this section, a judgment for recovery shall also include court costs.

(10) Civil claims under this section shall apply to those claims which arise after ***the effective date of this Act***[~~July 13, 1990~~].

The Committee Substitute to **HB 475** is as follows:

HB 475, AN ACT relating to civil actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 411.095 is amended to read as follows:

(1) An adult or emancipated minor who damages, destroys, or takes possession of any goods, wares, or merchandise, stored, displayed, or offered for sale by any wholesale or retail store or other mercantile establishment, or who alters the price indicia of the merchandise, in violation of the provisions of KRS Chapters 512 and 514, without having paid the purchase price thereof, shall be civilly liable to the owner for actual damages[~~, if any, and for a penalty to the owner in the amount of the retail value of the merchandise not to exceed five hundred dollars ($500), plus an additional penalty to the owner of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250)~~].

(2) The custodial parents or legal guardian having custody of an unemancipated minor who damages, destroys, or takes possession of any goods, wares, or merchandise, stored, displayed, or offered for sale by any wholesale or retail store or other mercantile establishment, or who alters the price indicia of the merchandise, which would be a public offense, without having paid the purchase price thereof, shall be civilly liable to the owner for actual damages[~~, if any, and for a penalty to the owner in the amount of the retail value of the merchandise not to exceed five hundred dollars ($500), plus an additional penalty to the owner of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250)~~]. For purposes of this subsection, liability shall not be imposed upon any governmental entity, private agency, or foster parents assigned responsibility for the minor child pursuant to a court order or action of the Cabinet for Families and Children, or any agency thereunder.

(3) For the purposes of this section, "owner" shall include any agent or employee of the owner.

(4) ***If a defendant is convicted of a criminal charge arising from a course of conduct described in subsection (1) or (2) of this section, an action under this section may not be maintained if restitution ordered under that conviction or plea agreement has made the owner whole. However,*** a conviction of an offense under KRS Chapters 512 or 514 is not a condition precedent to ***maintain an***[~~the maintenance of a civil~~] action under this section.

(5) Civil liability under this section shall not be limited by any other law that limits liability of parents of minor children.

(6) An action for recovery of damages~~[, or penalty, or both,]~~ and costs under this section may be brought in any court of competent jurisdiction, including the small claims division of District Court, if the total amount sought does not exceed the jurisdictional limit of the respective court.

(7) The fact that an owner has a right to bring an action against any individual as provided in this section shall not limit the right of the owner to demand, in writing, that a person who is liable under this section remit the amount of the ***actual damages***~~[claim]~~ prior to the commencement of any legal action.

(8) Judgments, but not claims, arising under this section may be assigned.

(9) In addition to any civil damages~~[or penalties, or both, which may be]~~ recovered under this section, a judgment for recovery shall also include court costs.

(10) Civil claims under this section shall apply to those claims which arise after ***the effective date of this Act***~~[July 13, 1990]~~.

HB 652, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189A.005 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath;

(2) ***"Ignition interlock device" means a device that connects a motor vehicle ignition system or motorcycle ignition system to a breath alcohol analyzer and prevents a motor vehicle ignition or motorcycle ignition from starting if a driver's breath alcohol concentration exceeds 0.02, as measured by the device;***

(3) "License" means any driver's or operator's license or any other license or permit to operate a motor vehicle issued under or granted by the laws of this state including:

(a) Any temporary license or instruction permit;

(b) The privilege of any person to obtain a valid license or instruction permit, or to drive a motor vehicle whether or not the person holds a valid license; and

(c) Any nonresident's operating privilege as defined in KRS Chapter 186 or 189;

(4) "Limited access highway" has the same meaning as "limited access facility" does in KRS 177.220;

(5) "Refusal" means declining to submit to any test or tests pursuant to KRS 189A.103. Declining may be either by word or by the act of refusal. If the breath testing instrument for any reason shows an insufficient breath sample and the alcohol concentration cannot be measured by the breath testing instrument, the law enforcement officer shall then request the defendant to take a blood or urine test in lieu of the breath test. If the defendant then declines either by word or by the act of refusal, he shall then be deemed to have refused if the refusal occurs at the site at which any alcohol concentration or substance test is to be administered;

(6)~~[(3)]~~ When age is a factor, it shall mean age at the time of the commission of the offense; ***and***

(7)~~[(4)]~~ Unless otherwise provided, license suspensions under this chapter shall be imposed by the court. The court shall impose the applicable period of license suspension enumerated by this chapter and shall include in its order or judgment the length and terms of any suspension imposed. The license suspension shall be deemed effective on the date of entry of the court's order or judgment. The role of the Transportation Cabinet shall be limited to administering the suspension period under the terms and for the duration enumerated by the court in its order or judgment~~[;~~

~~(5) "Limited access highway" has the same meaning as "limited access facility" does in KRS 177.220;~~

~~(6) "License" means any driver's or operator's license or any other license or permit to operate a motor vehicle issued under or granted by the laws of this state including:~~

~~(a) Any temporary license or instruction permit;~~

~~(b) The privilege of any person to obtain a valid license or instruction permit, or to drive a motor vehicle whether or not the person holds a valid license; and~~

~~(c) Any nonresident's operating privilege as defined in KRS Chapter 186 or 189]~~.

Section 2. KRS 189A.070 is amended to read as follows:

(1) Unless the person is under eighteen (18) years of age, in addition to the penalties specified in KRS 189A.010, a person convicted of violation of KRS 189A.010(1)(a), (b), (c), or (d) shall have his license to operate a motor vehicle or motorcycle revoked by the court as follows:

(a) For the first offense within a five (5) year period, for a period of not less than thirty (30) days nor more than one hundred twenty (120) days;

(b) For the second offense within a five (5) year period, for a period of not less than twelve (12) months nor more than eighteen (18) months;

(c) For a third offense within a five (5) year period, for a period of not less than twenty-four (24) months nor more than thirty-six (36) months; and

(d) For a fourth or subsequent offense within a five (5) year period, sixty (60) months.

(e) For purposes of this section, "offense" shall have the same meaning as described in KRS 189A.010(5)(e).

(2) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(3) In addition to the period of license revocation set forth in subsection (1) ***or (7)*** of this section, no person shall be eligible for reinstatement of his privilege to operate a motor vehicle until he has completed the alcohol or substance abuse education or treatment program ordered pursuant to KRS 189A.040.

(4) A person under the age of eighteen (18) who is convicted of violation of KRS 189A.010(1)(a), (b), (c), or (d) shall have his license revoked by the court until he reaches the age of eighteen (18) or shall have his license revoked as provided in subsection (1) ***or (7)*** of this section, whichever penalty will result in the longer period of revocation ***or court-ordered driving conditions***.

(5) Licenses revoked pursuant to this chapter shall forthwith be surrendered to the court upon conviction. The court shall transmit the conviction records, and other appropriate information to the Transportation Cabinet. A court shall not waive or stay this procedure.

(6) Should a person convicted under this chapter whose license is revoked fail to surrender it to the court upon conviction, the court shall issue an order directing the sheriff or any other peace officer to seize the license forthwith and deliver it to the court.

(7) A person whose license has been revoked pursuant to subsection (1)(b), (c), or (d) of this section may move the court to reduce the applicable minimum period of revocation by one-half (1/2). The court may, upon a written finding in the record for good cause shown, order such a period to be reduced by one-half (1/2) if the following conditions are satisfied:

(a) The person shall not operate a motor vehicle or motorcycle without an ignition interlock device as provided for in subsection (2) of Section 5 of this Act;

(b) The person shall not operate a motor vehicle or motorcycle at any other time and for any other purposes than those specified by the court; and

(c) The ignition interlock device shall be installed on the motor vehicle or motorcycle for a period of time not less than the applicable minimum period of revocation provided for under subsection (1)(b), (c), or (d) of this section nor for more than the respective maximum period of revocation provided for under subsection (1)(b), (c), or (d) of this section.

(8) Upon a finding of a violation of any of the conditions specified in subsection (7) of this section or of the order permitting any reduction in a minimum period of revocation that is issued pursuant thereto, the court shall dissolve such an order and the person shall receive no credit toward the minimum period of revocation required under subsection (1)(b), (c), or (d) of this section.

Section 3. KRS 189A.090 is amended to read as follows:

(1) No person shall operate or be in physical control of a motor vehicle while his license is revoked or suspended under KRS 189A.010(6), 189A.070, 189A.107, 189A.200, or 189A.220, or operate or be in physical control of a motor vehicle without a functioning ignition interlock device in violation of KRS 189A.345(1).

(2) In addition to any other penalty imposed by the court, any person who violates subsection (1) of this section shall:

(a) For a first offense within a five (5) year period, be guilty of a Class B misdemeanor and have his license revoked by the court for six (6) months, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), or (d), in which event he shall be guilty of a Class A misdemeanor and have his license revoked by the court for a period of one (1) year;

(b) For a second offense within a five (5) year period, be guilty of a Class A misdemeanor and have his license revoked by the court for one (1) year, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), or (d), in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of two (2) years;

(c) For a third or subsequent offense within a five (5) year period, be guilty of a Class D felony and have his license revoked by the court for two (2) years, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), or (d), in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of five (5) years.

(3) The five (5) year period under this section shall be measured in the same manner as in KRS 189A.070.

(4) After one (1) year of the period of revocation provided for in subsection (2)(b) or (c) of this section has elapsed, a person whose license has been revoked pursuant to either of those subsections may move the court to have an ignition

interlock device installed for the remaining portion of the period of revocation. The court may, upon a written finding in the record for good cause shown, order an ignition interlock device installed if the following conditions are satisfied:

(a) The person shall not operate a motor vehicle or motorcycle without an ignition interlock device as provided for in subsection (2) of Section 5 of this Act;

(b) The person shall not operate a motor vehicle or motorcycle at any other time and for any other purposes than those specified by the court; and

(c) The ignition interlock device shall be installed on the motor vehicle or motorcycle for a period of time not less than the period of revocation required for the person under subsection (2)(b) or (c) of this section.

(5) Upon a finding of a violation of any of the conditions specified in subsection (4) of this section or of the order permitting the installation of an ignition interlock device in lieu of the remaining period of revocation that is issued pursuant thereto, the court shall dissolve such an order and the person shall receive no credit toward the remaining period of revocation required under subsection (2)(b) or (c) of this section.

Section 4. KRS 189A.200 is amended to read as follows:

(1) ~~[The court shall]~~At the arraignment ***of any person charged with a violation of KRS 189A.010(1)*** or as soon as such relevant information becomes available***, the court shall either*** suspend the motor vehicle operator's license and motorcycle operator's license and driving privileges ***or, upon a written finding in the record for good cause shown, order the installation of an interlock ignition device as provided for in subsection (2) of Section 5 of this Act for***~~[of]~~ any person~~[charged with a violation of KRS 189A.010(1)]~~ who:

(a) Has refused to take an alcohol concentration or substance test as reflected on the uniform citation form;

(b) Has been convicted of one (1) or more prior offenses as described in KRS 189A.010(5)(e) or has had his operator's license revoked or suspended on one (1) or more occasions for refusing to take an alcohol concentration or substance test, in the five (5) year period immediately preceding his arrest; or

(c) Was involved in an accident that resulted in death or serious physical injury as defined in KRS 500.080 to a person other than the defendant.

(2) Persons whose licenses have been suspended pursuant to this section may file a motion for judicial review of the suspension, and the court shall conduct the review in accordance with this chapter within thirty (30) days after the filing of the motion. The court shall, at the time of the suspension, advise the defendant of his rights to the review.

(3) When the court orders the suspension of a license pursuant to this section, the defendant shall immediately surrender the license to the Circuit Court clerk, and the court shall retain the defendant in court or remand him into the custody of the sheriff until the license is produced and surrendered. If the defendant has lost his operator's license, other than due to a previous suspension or revocation, which is still in effect, the sheriff shall take him to the office of the circuit clerk so that a new license can be issued. If the license is currently under suspension or revocation, the provisions of this subsection shall not apply.

(4) The Circuit Court Clerk shall forthwith transmit to the Transportation Cabinet any license surrendered to him pursuant to this section.

(5) Licenses suspended under this section shall remain suspended until a judgment of conviction or acquittal is entered in the case or until the court enters an order terminating the suspension, but in no event for a period longer than the maximum license suspension period applicable to the person under KRS 189A.070 and 189A.107.

(6) Any person whose operator's license has been suspended pursuant to this section shall be given credit for all pretrial suspension time against the period of revocation imposed. Licenses suspended under this section shall remain suspended until a judgment of conviction or acquittal is entered in the case or until the court enters an order terminating the suspension, but in no event for a period longer than the maximum license suspension period applicable to the person under KRS 189A.070 and 189A.107.

(7) A person who is ordered under this section to have an ignition interlock device installed as provided for in subsection (2) of Section 5 of this Act shall have the same respective rights provided under this section, KRS 189A.220, 189A.240, and 189A.250 as are provided to a person whose license has been suspended pursuant to this section and who is entitled to those rights.

Section 5. KRS 189A.340 is amended to read as follows:

(1)~~[For the purposes of this section and KRS 189A.345 and 189A.410, "ignition interlock device" means a device that connects a motor vehicle ignition system or motorcycle ignition system to a breath alcohol analyzer and prevents a motor vehicle ignition or motorcycle ignition from starting if a driver's breath alcohol concentration, as defined in KRS 189A.005, exceeds 0.02, as measured by the device.~~

~~(2)]~~ In lieu of ordering license plate impoundment under KRS 189A.085 of a person convicted of a second or subsequent violation of KRS 189A.010, the court may order installation of an ignition interlock device as provided in this section as follows:

(a) Except as provided in paragraph (d) of this subsection, at the time that the court revokes a person's license under any provision of KRS 189A.070 other than KRS 189A.070(1)(a), the court shall also order that, at the conclusion of the license revocation, the person shall be prohibited from operating any motor vehicle or motorcycle without a functioning ignition interlock device.

(b) 1. The first time in a five (5) year period that a person is penalized under this section, a functioning ignition interlock device shall be installed for a period of six (6) months.

2. The second time in a five (5) year period that a person is penalized under this section, a functioning ignition interlock device shall be installed for a period of twelve (12) months.

3. The third or subsequent time in a five (5) year period that a person is penalized under this section, a functioning ignition interlock device shall be installed for a period of thirty (30) months.

4. The person whose license has been suspended for a second or subsequent violation of KRS 189A.010 shall not be able to apply to the court for permission to install an ignition interlock device until the person has completed one (1) year of license suspension without any subsequent conviction for a violation of KRS 189A.010 or 189A.090. If the court grants permission to install an ignition interlock device, an ignition interlock device shall be installed on all vehicles owned or leased by the person whose license has been suspended.

(c) In determining the five (5) year period under paragraph (b) of this subsection, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered, resulting in the license revocations described in KRS 189A.070.

(d) If the court finds that a person is required to operate a motor vehicle or motorcycle in the course and scope of the person's employment and the motor vehicle or motorcycle is owned by the employer, then the court shall order that the person may operate that motor vehicle or motorcycle during regular working hours for the purposes of his or her employment without installation of a functioning ignition interlock device on that motor vehicle or motorcycle if the employer has been notified of the prohibition established under paragraphs (a), (b), and (c) of this subsection.

(2)[~~(3)~~] Upon ordering the installation of a functioning ignition interlock device, the court, without a waiver or a stay of the following procedure, shall:

(a) Transmit its order and other appropriate information to the Transportation Cabinet;

(b) Direct that the Transportation Cabinet records reflect:

1. That the person shall not operate a motor vehicle or motorcycle without a functioning ignition interlock device, except as provided in paragraph (d) of subsection *(1)*[~~(2)~~] of this section; and

2. Whether the court has expressly permitted the person to operate a motor vehicle or motorcycle without a functioning ignition interlock device, as provided in paragraph (d) of subsection *(1)*[~~(2)~~] of this section;

(c) Direct the Transportation Cabinet to attach or imprint a notation on the driver's license of any person restricted under this section stating that the person shall operate only a motor vehicle or motorcycle equipped with a functioning ignition interlock device. However, if the exception provided for in paragraph (d) of subsection *(1)*[~~(2)~~] of this section applies, the notation shall indicate the exception;

(d) Require proof of the installation of the functioning ignition interlock device and periodic reporting by the person for the verification of the proper functioning of the device;

(e) Require the person to have the device serviced and monitored at least every ***thirty (30)***[~~ninety (90)~~] days for proper functioning by an entity approved by the Transportation Cabinet; and

(f) Require the person to pay the reasonable cost of leasing or buying, installing, servicing, and monitoring the device. The court may establish a payment schedule for the person to follow in paying the cost.

(3)[~~(4)~~] The Transportation Cabinet shall:

(a) Certify ignition interlock devices for use in this Commonwealth;

(b) Approve ignition interlock device installers who install functioning ignition interlock devices under the requirements of this section;

(c) Approve servicing and monitoring entities identified in paragraph (e) of subsection *(2)*[~~(3)~~] of this section ***and require those entities to report on driving activity within seven (7) days of servicing and monitoring each ignition interlock device to the respective court, prosecuting attorney, and defendant***;

(d) Publish and periodically update on the Transportation Cabinet web site a list of the certified ignition interlock devices, the approved ignition interlock installers, and the approved servicing and monitoring entities;

(e) Develop a warning label that an ignition interlock device installer shall place on a functioning ignition interlock device before installing that device. The warning label shall warn of the penalties established in KRS 189A.345; and

(f) Promulgate administrative regulations to carry out the provisions of this subsection.

Section 6. KRS 189A.345 is amended to read as follows:

(1) No person shall operate a motor vehicle or motorcycle without a functioning ignition interlock device when prohibited to

do so under ***subsection (1) of Section 5 of this Act***[~~KRS 189A.340(2)~~] or under KRS 189A.410(2).

(2) (a) No person shall start a motor vehicle or motorcycle equipped with an ignition interlock device for the purpose of providing an operable motor vehicle or motorcycle to a person subject to the prohibition established in ***subsection (1) of Section 5 of this Act***[~~KRS 189A.340(2)~~] or under KRS 189A.440(2)(b).

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and
2. For a second or subsequent offense, be guilty of a Class A misdemeanor.

(3) (a) No person shall:

1. Knowingly install a defective ignition interlock device on a motor vehicle or motorcycle; or
2. Tamper with an installed ignition interlock device with the intent of rendering it defective.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and
2. For a second or subsequent offense, be guilty of a Class A misdemeanor and be prohibited from installing ignition interlock devices or directing others in the installation of ignition interlock devices.

(4) (a) No person shall direct another person to install a defective ignition interlock device on a motor vehicle or motorcycle when the person giving the direction knows that the ignition interlock device is defective.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and
2. For a second or subsequent offense, be guilty of a Class A misdemeanor and be prohibited from directing others in the installation of ignition interlock devices or installing ignition interlock devices.

Section 7. KRS 189A.410 is amended to read as follows:

(1) At any time following the expiration of the minimum license suspension periods enumerated in KRS 189A.010(6), 189A.070, and 189A.107, the court may grant the person hardship driving privileges for the balance of the suspension period imposed by the court, upon written petition of the defendant, if it finds reasonable cause to believe that revocation would hinder the person's ability to:

(a) Continue his employment;

(b) Continue attending school or an educational institution;

(c) Obtain necessary medical care;

(d) Attend driver improvement, alcohol, or substance abuse education programs; or

(e) Attend court-ordered counseling or other programs.

(2) Whenever the court grants a person hardship driving privileges under subsection (1) of this section, the court through court order, may:

(a) Prohibit the person from operating any motor vehicle or motorcycle without a functioning ignition interlock device[~~, as defined in KRS 189A.340(1)~~];

(b) Require that the person comply with all of the requirements of KRS 189A.340, except for the requirements found in ***subsection (1) of Section 5 of this Act***[~~KRS 189A.340(2)~~]; and

(c) Require the person to install an ignition interlock device on every vehicle owned or leased by the person who is permitted to operate a motor vehicle under this section.

(3) The court shall not issue a hardship license to a person who has refused to take an alcohol concentration or substance test or tests offered by a law enforcement officer.

The Committee Substitute to **HB 652** is as follows:

HB 652, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189A.005 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath;

(2) ***"Ignition interlock device" means a device that connects a motor vehicle ignition system or motorcycle ignition system to a breath alcohol analyzer and prevents a motor vehicle ignition or motorcycle ignition from starting if a driver's breath alcohol concentration exceeds 0.02, as measured by the device;***

(3) "License" means any driver's or operator's license or any other license or permit to operate a motor vehicle issued

under or granted by the laws of this state including:

(a) Any temporary license or instruction permit;

(b) The privilege of any person to obtain a valid license or instruction permit, or to drive a motor vehicle whether or not the person holds a valid license; and

(c) Any nonresident's operating privilege as defined in KRS Chapter 186 or 189;

(4) "Limited access highway" has the same meaning as "limited access facility" does in KRS 177.220;

(5) "Refusal" means declining to submit to any test or tests pursuant to KRS 189A.103. Declining may be either by word or by the act of refusal. If the breath testing instrument for any reason shows an insufficient breath sample and the alcohol concentration cannot be measured by the breath testing instrument, the law enforcement officer shall then request the defendant to take a blood or urine test in lieu of the breath test. If the defendant then declines either by word or by the act of refusal, he shall then be deemed to have refused if the refusal occurs at the site at which any alcohol concentration or substance test is to be administered;

(6)[~~(3)~~] When age is a factor, it shall mean age at the time of the commission of the offense; ***and***

(7)[~~(4)~~] Unless otherwise provided, license suspensions under this chapter shall be imposed by the court. The court shall impose the applicable period of license suspension enumerated by this chapter and shall include in its order or judgment the length and terms of any suspension imposed. The license suspension shall be deemed effective on the date of entry of the court's order or judgment. The role of the Transportation Cabinet shall be limited to administering the suspension period under the terms and for the duration enumerated by the court in its order or judgment[~~;~~

~~(5) "Limited access highway" has the same meaning as "limited access facility" does in KRS 177.220;~~

~~(6) "License" means any driver's or operator's license or any other license or permit to operate a motor vehicle issued under or granted by the laws of this state including:~~

~~(a) Any temporary license or instruction permit;~~

~~(b) The privilege of any person to obtain a valid license or instruction permit, or to drive a motor vehicle whether or not the person holds a valid license; and~~

~~(c) Any nonresident's operating privilege as defined in KRS Chapter 186 or 189~~].

Section 2. KRS 189A.070 is amended to read as follows:

(1) Unless the person is under eighteen (18) years of age, in addition to the penalties specified in KRS 189A.010, a person convicted of violation of KRS 189A.010(1)(a), (b), (c), or (d) shall have his license to operate a motor vehicle or motorcycle revoked by the court as follows:

(a) For the first offense within a five (5) year period, for a period of not less than thirty (30) days nor more than one hundred twenty (120) days;

(b) For the second offense within a five (5) year period, for a period of not less than twelve (12) months nor more than eighteen (18) months;

(c) For a third offense within a five (5) year period, for a period of not less than twenty-four (24) months nor more than thirty-six (36) months; and

(d) For a fourth or subsequent offense within a five (5) year period, sixty (60) months.

(e) For purposes of this section, "offense" shall have the same meaning as described in KRS 189A.010(5)(e).

(2) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(3) In addition to the period of license revocation set forth in subsection (1) ***or (7)*** of this section, no person shall be eligible for reinstatement of his privilege to operate a motor vehicle until he has completed the alcohol or substance abuse education or treatment program ordered pursuant to KRS 189A.040.

(4) A person under the age of eighteen (18) who is convicted of violation of KRS 189A.010(1)(a), (b), (c), or (d) shall have his license revoked by the court until he reaches the age of eighteen (18) or shall have his license revoked as provided in subsection (1) ***or (7)*** of this section, whichever penalty will result in the longer period of revocation ***or court-ordered driving conditions***.

(5) Licenses revoked pursuant to this chapter shall forthwith be surrendered to the court upon conviction. The court shall transmit the conviction records, and other appropriate information to the Transportation Cabinet. A court shall not waive or stay this procedure.

(6) Should a person convicted under this chapter whose license is revoked fail to surrender it to the court upon conviction, the court shall issue an order directing the sheriff or any other peace officer to seize the license forthwith and deliver it to the court.

(7) A person whose license has been revoked pursuant to subsection (1)(b), (c), or (d) of this section may move the court to reduce the applicable minimum period of revocation by one-half (1/2), but in no case less than twelve (12) months. The court may, upon a written finding in the record for good cause shown, order such a period to be reduced by one-half

(1/2), but in no case less than twelve (12) months, if the following conditions are satisfied:

(a) The person shall not operate a motor vehicle or motorcycle without an ignition interlock device as provided for in subsection (2) of Section 4 of this Act;

(b) The person shall not operate a motor vehicle or motorcycle at any other time and for any other purposes than those specified by the court; and

(c) The ignition interlock device shall be installed on the motor vehicle or motorcycle for a period of time not less than the applicable minimum period of revocation provided for under subsection (1)(b), (c), or (d) of this section nor for more than the respective maximum period of revocation provided for under subsection (1)(b), (c), or (d) of this section.

(8) Upon a finding of a violation of any of the conditions specified in subsection (7) of this section or of the order permitting any reduction in a minimum period of revocation that is issued pursuant thereto, the court shall dissolve such an order and the person shall receive no credit toward the minimum period of revocation required under subsection (1)(b), (c), or (d) of this section.

Section 3. KRS 189A.090 is amended to read as follows:

(1) No person shall operate or be in physical control of a motor vehicle while his license is revoked or suspended under KRS 189A.010(6), 189A.070, 189A.107, 189A.200, or 189A.220, or operate or be in physical control of a motor vehicle without a functioning ignition interlock device in violation of KRS 189A.345(1).

(2) In addition to any other penalty imposed by the court, any person who violates subsection (1) of this section shall:

(a) For a first offense within a five (5) year period, be guilty of a Class B misdemeanor and have his license revoked by the court for six (6) months, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), or (d), in which event he shall be guilty of a Class A misdemeanor and have his license revoked by the court for a period of one (1) year;

(b) For a second offense within a five (5) year period, be guilty of a Class A misdemeanor and have his license revoked by the court for one (1) year, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), or (d), in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of two (2) years;

(c) For a third or subsequent offense within a five (5) year period, be guilty of a Class D felony and have his license revoked by the court for two (2) years, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), or (d), in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of five (5) years.

(3) The five (5) year period under this section shall be measured in the same manner as in KRS 189A.070.

(4) After one (1) year of the period of revocation provided for in subsection (2)(b) or (c) of this section has elapsed, a person whose license has been revoked pursuant to either of those subsections may move the court to have an ignition interlock device installed for the remaining portion of the period of revocation. The court may, upon a written finding in the record for good cause shown, order an ignition interlock device installed if the following conditions are satisfied:

(a) The person shall not operate a motor vehicle or motorcycle without an ignition interlock device as provided for in subsection (2) of Section 4 of this Act;

(b) The person shall not operate a motor vehicle or motorcycle at any other time and for any other purposes than those specified by the court; and

(c) The ignition interlock device shall be installed on the motor vehicle or motorcycle for a period of time not less than the period of revocation required for the person under subsection (2)(b) or (c) of this section.

(5) Upon a finding of a violation of any of the conditions specified in subsection (4) of this section or of the order permitting the installation of an ignition interlock device in lieu of the remaining period of revocation that is issued pursuant thereto, the court shall dissolve such an order and the person shall receive no credit toward the remaining period of revocation required under subsection (2)(b) or (c) of this section.

Section 4. KRS 189A.340 is amended to read as follows:

(1)[~~For the purposes of this section and KRS 189A.345 and 189A.410, "ignition interlock device" means a device that connects a motor vehicle ignition system or motorcycle ignition system to a breath alcohol analyzer and prevents a motor vehicle ignition or motorcycle ignition from starting if a driver's breath alcohol concentration, as defined in KRS 189A.005, exceeds 0.02, as measured by the device.~~

~~(2)~~] In lieu of ordering license plate impoundment under KRS 189A.085 of a person convicted of a second or subsequent violation of KRS 189A.010, the court may order installation of an ignition interlock device as provided in this section as follows:

(a) Except as provided in paragraph (d) of this subsection, at the time that the court revokes a person's license under any provision of KRS 189A.070 other than KRS 189A.070(1)(a), the court shall also order that, at the conclusion of the license revocation, the person shall be prohibited from operating any motor vehicle or motorcycle without a functioning ignition interlock device.

(b) 1. The first time in a five (5) year period that a person is penalized under this section, a functioning ignition interlock device shall be installed for a period of six (6) months.

2. The second time in a five (5) year period that a person is penalized under this section, a functioning ignition interlock device shall be installed for a period of twelve (12) months.

3. The third or subsequent time in a five (5) year period that a person is penalized under this section, a functioning ignition interlock device shall be installed for a period of thirty (30) months.

4. The person whose license has been suspended for a second or subsequent violation of KRS 189A.010 shall not be able to apply to the court for permission to install an ignition interlock device until the person has completed one (1) year of license suspension without any subsequent conviction for a violation of KRS 189A.010 or 189A.090. If the court grants permission to install an ignition interlock device, an ignition interlock device shall be installed on all vehicles owned or leased by the person whose license has been suspended.

(c) In determining the five (5) year period under paragraph (b) of this subsection, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered, resulting in the license revocations described in KRS 189A.070.

(d) If the court finds that a person is required to operate a motor vehicle or motorcycle in the course and scope of the person's employment and the motor vehicle or motorcycle is owned by the employer, then the court shall order that the person may operate that motor vehicle or motorcycle during regular working hours for the purposes of his or her employment without installation of a functioning ignition interlock device on that motor vehicle or motorcycle if the employer has been notified of the prohibition established under paragraphs (a), (b), and (c) of this subsection.

(2)[~~(3)~~] Upon ordering the installation of a functioning ignition interlock device, the court, without a waiver or a stay of the following procedure, shall:

(a) Transmit its order and other appropriate information to the Transportation Cabinet;

(b) Direct that the Transportation Cabinet records reflect:

1. That the person shall not operate a motor vehicle or motorcycle without a functioning ignition interlock device, except as provided in paragraph (d) of subsection *(1)*[~~(2)~~] of this section; and

2. Whether the court has expressly permitted the person to operate a motor vehicle or motorcycle without a functioning ignition interlock device, as provided in paragraph (d) of subsection *(1)*[~~(2)~~] of this section;

(c) Direct the Transportation Cabinet to attach or imprint a notation on the driver's license of any person restricted under this section stating that the person shall operate only a motor vehicle or motorcycle equipped with a functioning ignition interlock device. However, if the exception provided for in paragraph (d) of subsection *(1)*[~~(2)~~] of this section applies, the notation shall indicate the exception;

(d) Require proof of the installation of the functioning ignition interlock device and periodic reporting by the person for the verification of the proper functioning of the device;

(e) Require the person to have the device serviced and monitored at least every ***thirty (30)***[~~ninety (90)~~] days for proper functioning by an entity approved by the Transportation Cabinet; and

(f) Require the person to pay the reasonable cost of leasing or buying, installing, servicing, and monitoring the device. The court may establish a payment schedule for the person to follow in paying the cost.

(3)[~~(4)~~] The Transportation Cabinet shall:

(a) Certify ignition interlock devices for use in this Commonwealth;

(b) Approve ignition interlock device installers who install functioning ignition interlock devices under the requirements of this section;

(c) Approve servicing and monitoring entities identified in paragraph (e) of subsection *(2)*[~~(3)~~] of this section ***and require those entities to report on driving activity within seven (7) days of servicing and monitoring each ignition interlock device to the respective court, prosecuting attorney, and defendant***;

(d) Publish and periodically update on the Transportation Cabinet web site a list of the certified ignition interlock devices, the approved ignition interlock installers, and the approved servicing and monitoring entities;

(e) Develop a warning label that an ignition interlock device installer shall place on a functioning ignition interlock device before installing that device. The warning label shall warn of the penalties established in KRS 189A.345; and

(f) Promulgate administrative regulations to carry out the provisions of this subsection.

Section 5. KRS 189A.345 is amended to read as follows:

(1) No person shall operate a motor vehicle or motorcycle without a functioning ignition interlock device when prohibited to do so under ***subsection (1) of Section 4 of this Act***[~~KRS 189A.340(2)~~] or under KRS 189A.410(2).

(2) (a) No person shall start a motor vehicle or motorcycle equipped with an ignition interlock device for the purpose of

providing an operable motor vehicle or motorcycle to a person subject to the prohibition established in ***subsection (1) of Section 4 of this Act***[~~KRS 189A.340(2)~~] or under KRS 189A.440(2)(b).

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and
2. For a second or subsequent offense, be guilty of a Class A misdemeanor.

(3) (a) No person shall:

1. Knowingly install a defective ignition interlock device on a motor vehicle or motorcycle; or
2. Tamper with an installed ignition interlock device with the intent of rendering it defective.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and
2. For a second or subsequent offense, be guilty of a Class A misdemeanor and be prohibited from installing ignition interlock devices or directing others in the installation of ignition interlock devices.

(4) (a) No person shall direct another person to install a defective ignition interlock device on a motor vehicle or motorcycle when the person giving the direction knows that the ignition interlock device is defective.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and
2. For a second or subsequent offense, be guilty of a Class A misdemeanor and be prohibited from directing others in the installation of ignition interlock devices or installing ignition interlock devices.

Section 6. KRS 189A.410 is amended to read as follows:

(1) At any time following the expiration of the minimum license suspension periods enumerated in KRS 189A.010(6), 189A.070, and 189A.107, the court may grant the person hardship driving privileges for the balance of the suspension period imposed by the court, upon written petition of the defendant, if it finds reasonable cause to believe that revocation would hinder the person's ability to:

(a) Continue his employment;

(b) Continue attending school or an educational institution;

(c) Obtain necessary medical care;

(d) Attend driver improvement, alcohol, or substance abuse education programs; or

(e) Attend court-ordered counseling or other programs.

(2) Whenever the court grants a person hardship driving privileges under subsection (1) of this section, the court through court order, may:

(a) Prohibit the person from operating any motor vehicle or motorcycle without a functioning ignition interlock device[~~, as defined in KRS 189A.340(1)~~];

(b) Require that the person comply with all of the requirements of KRS 189A.340, except for the requirements found in ***subsection (1) of Section 4 of this Act***[~~KRS 189A.340(2)~~]; and

(c) Require the person to install an ignition interlock device on every vehicle owned or leased by the person who is permitted to operate a motor vehicle under this section.

(3) The court shall not issue a hardship license to a person who has refused to take an alcohol concentration or substance test or tests offered by a law enforcement officer.

HB 688, AN ACT relating to negotiable instruments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Any term which is defined in the Uniform Commercial Code shall have that same meaning in this section.

(2) Any person soliciting business in this Commonwealth who makes an offer for contract formation by sending, as part of the solicitation, a negotiable instrument through the mail where the indorsement and subsequent negotiation of the instrument by the recipient forms the acceptance of the contract shall only form, as a result of subsequent indorsement and negotiation of the instrument, a contract which is voidable at the option of the person making the indorsement.

(3) Any holder in due course of an instrument mailed in violation of subsection (2) of this section shall be held harmless by the maker of the instrument should the contract formed by the indorsement and negotiation be voided.

(4) Where a contract is voided under this section, goods and services received under the contract by the person voiding the contract shall remain or become the property of the person voiding the contract.

(5) Every solicitation making an offer for contract formation subject to subsection (2) of this section shall include a toll-

free phone number which the recipient may use to void any contract resulting from the solicitation.

(6) *This state shall have jurisdiction in any dispute arising from the provisions of this section and any waiver of this jurisdiction to the contrary shall be void.*

The Committee Substitute to **HB 688** is as follows:

HB 688, AN ACT relating to negotiable instruments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 372 IS CREATED TO READ AS FOLLOWS:

(1) *Any term which is defined in the Uniform Commercial Code, KRS Chapter 355, shall have that same meaning in this section, unless the context otherwise requires.*

(2) *Any person soliciting business in this Commonwealth who intends to make an offer for contract formation by sending through the mail, as part of the solicitation, what appears to be a check or other item payable to the recipient where the indorsement and subsequent negotiation of the item by the recipient is intended by any party to the item, or agent or assignee thereof, to form an acceptance of the contract shall make the following disclosure in upper case twelve (12) point bold face type immediately adjacent to the designated place of indorsement: "**BY SIGNING AND DELIVERING THIS DOCUMENT YOU AGREE TO PAY FOR FUTURE SERVICES ARISING OUT OF THIS CONTRACT.**".*

(3) *A purported offer described in subsection (2) of this section that does not contain the required disclosure, to the extent a subsequent indorsement and negotiation of the item would otherwise constitute an acceptance, shall not be a valid offer for contract formation in this Commonwealth.*

(4) *If a purported offer which meets the requirements in subsection (2) relates to a free membership period, trial period, or some other similar acceptance incentive that is prescribed by a time limit and which purports to form a contract without a cancellation, recission, revocation, or other form of termination by the recipient prior to the end of such a period, then the offeror shall send notice to the recipient at least two (2) weeks prior to the end of that time period of the recipient's purported obligation to cancel, rescind, revoke, or otherwise terminate the recipient's purported acceptance before a purported contract is formed. The notice shall be readily apparent on any communication from the offeror and it shall be in upper case twelve (12) point bold face type and in the following form: "**YOU MUST ACT NOW TO AVOID FUTURE CHARGES.**" Any time period described under this subsection that is part of a purported offer described in subsection (2) of this section and that is less than two (2) weeks shall not be a valid offer for contract formation in this Commonwealth.*

(5) *If a purported offer described in subsection (2) of this section does not contain the required disclosure, or is not followed by the required notice, then any goods or services delivered to the recipient pursuant to the purported offer shall not operate to form a contract by or between the offeror and the recipient. Any such offer or purported contract as a result thereof is void as against the public policy of the Commonwealth.*

(6) *An attempt by an offeror, or an agent or assignee thereof, to enforce a purported contract or to bind a recipient to a purported acceptance arising out of a purported offer that does not comply with this section shall be a violation of the Consumer Protection Act, KRS 367.170 to 367.300. Remedies available for a violation of KRS 367.170 to 367.300 shall be in addition to any remedies available at common law or under this section.*

(7) *The Attorney General, Commonwealth's attorneys, and county attorneys shall have concurrent jurisdiction to enforce the provisions of this section in a court of the county where the purported offer was received.*

(8) *Any waiver by the recipient of jurisdiction for actions arising out of a purported offer under this section shall be void. Any depository bank or holder in due course of an item which does not meet the requirements of subsection (2) of this section or, as the case may be subsection (4) of this section, shall be held harmless by the offeror of the item, or an agent or assignee thereof.*

The Committee Amendment No. 1 Title to **HB 688** is as follows:

Amend title to read "AN ACT relating to contract formation.".

HJR 61, A JOINT RESOLUTION authorizing and directing the Kentucky Criminal Justice Council to conduct a comprehensive study of capital cases in the Commonwealth of Kentucky.

WHEREAS, there has been growing concern across the country that problems exist within our nation's current system of administering capital punishment; and

WHEREAS, procedural safeguards and assurances of fundamental fairness are critical elements in the prevention of wrongful convictions and executions; and

WHEREAS, the Kentucky Criminal Justice Council was mandated in KRS 15A.040(1) to review and make written recommendations on capital litigation; and

WHEREAS, the council established a Capital Litigation Committee to review the capital litigation process to ensure that the current system is fair, effective, and efficient; and

WHEREAS, the Capital Litigation Committee, representing all key components of the criminal justice system, came to consensus in the identification of elements to be studied to evaluate the capital litigation process in Kentucky;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Criminal Justice Council shall conduct a comprehensive statewide study of capital cases. The study may include the following issues:

(1) Delay in implementing the penalty imposed. If there is delay, what reforms in the review process should be considered to make it more timely? Reforms to be considered may include recommendations to the Kentucky Supreme Court regarding stay practice and revision of Rule of Criminal Procedure 11.42;

(2) Effective assistance of counsel, including such matters as minimum standards for and certification of counsel, and trial judge training;

(3) Access to DNA evidence;

(4) Evidentiary issues such as jail house informant testimony in Kentucky and other jurisdictions, uncorroborated eyewitness testimony, and unrecorded confessions;

(5) Resources available to the prosecution and the defense such as special legal teams and experts;

(6) Prosecutorial discretion in seeking the death penalty, including subissues such as adapting to Kentucky federal guidelines or procedures from other states and establishing an independent review team to ensure statewide consistency in considering race, geography, gender, economic status, age, cognitive abilities, culpability, and aggravating and mitigating circumstances; and

(7) Jury issues such as jury selection and instruction in death penalty cases, educating potential jurors on the trial process and the overall operation of the criminal justice system, and criminal background checks of jurors in death penalty cases.

Section 2. If funds become available, the Kentucky Criminal Justice Council may enter into a contract with a person or entity in the private sector to assist the council in conducting the study.

Section 3. The Kentucky Criminal Justice Council shall transmit the results of the study to the Interim Joint Committee on Judiciary no later than August 1, 2003.

HCR 182, A CONCURRENT RESOLUTION directing the Interim Joint Committee on Judiciary to study the Uniform Child Custody Jurisdiction and Enforcement Act.

WHEREAS, all 50 states adopted the Uniform Child Custody Jurisdiction Act, Kentucky having done so in 1980; and

WHEREAS, in 1997, the National Conference of Commissioners on Uniform State Laws drafted the Uniform Child Custody Jurisdiction and Enforcement Act as a replacement for the Uniform Child Custody Jurisdiction Act; and

WHEREAS, at least 21 states have replaced the Uniform Child Custody Jurisdiction Act with the Uniform Child Custody Jurisdiction and Enforcement Act;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Interim Joint Committee on Judiciary is directed to study the Uniform Child Custody Jurisdiction and Enforcement Act.

Section 2. The Interim Joint Committee on Judiciary shall complete its study before the 2003 Regular Session of the Kentucky General Assembly.

Section 3. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

SB 25, AN ACT relating to trafficking in, possession of, or use of drugs or controlled substances used to facilitate or used in furtherance of the commission of sexual offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.1412 is amended to read as follows:

(1) A person is guilty of trafficking in a controlled substance in the first degree when he knowingly and unlawfully traffics in: a controlled substance, that is classified in Schedules I or II which is a narcotic drug; a controlled substance analogue; lysergic acid diethylamide; phencyclidine;[~~ or~~] a controlled substance that contains any quantity of methamphetamine,

including its salts, isomers, and salts of isomers***; or flunitrazepam, including its salts, isomers, and salts of isomers***.

(2) Any person who violates the provisions of subsection (1) of this section shall:

(a) For the first offense be guilty of a Class C felony.

(b) For a second or subsequent offense be guilty of a Class B felony.

Section 2. KRS 218A.1415 is amended to read as follows:

(1) A person is guilty of possession of a controlled substance in the first degree when he knowingly and unlawfully possesses: a controlled substance that contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers or, that is classified in Schedules I or II which is a narcotic drug; a controlled substance analogue; lysergic acid diethylamide;[~~ or~~] phencyclidine***; or flunitrazepam, including its salts, isomers, and salts of isomers***.

(2) Possession of a controlled substance in the first degree is:

(a) For a first offense a Class D felony.

(b) For a second or subsequent offense a Class C felony.

Section 3. KRS 510.050 is amended to read as follows:

(1) A person is guilty of rape in the second degree when***:***[~~,~~]

(a) Being eighteen (18) years old or more, he engages in sexual intercourse with another person less than fourteen (14) years old***; or***

(b) He engages in sexual intercourse with another person who is mentally incapacitated.

(2) Rape in the second degree is a Class C felony.

Section 4. KRS 510.080 is amended to read as follows:

(1) A person is guilty of sodomy in the second degree when***:***[~~,~~]

(a) Being eighteen (18) years old or more, he engages in deviate sexual intercourse with another person less than fourteen (14) years old***; or***

(b) He engages in deviate sexual intercourse with another person who is mentally incapacitated.

(2) Sodomy in the second degree is a Class C felony.

Section 5. KRS 510.110 is amended to read as follows:

(1) A person is guilty of sexual abuse in the first degree when:

(a) He subjects another person to sexual contact by forcible compulsion; or

(b) He subjects another person to sexual contact who is incapable of consent because he:

1. Is physically helpless;[~~ or~~]

2. Is less than twelve (12) years old***; or***

3. Is mentally incapacitated.

(2) Sexual abuse in the first degree is a Class D felony.

Section 6. KRS 510.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deviate sexual intercourse" means any act of sexual gratification involving the sex organs of one person and the mouth or anus of another; or penetration of the anus of one person by a foreign object manipulated by another person. "Deviate sexual intercourse" does not include penetration of the anus by a foreign object in the course of the performance of generally recognized health-care practices;

(2) "Forcible compulsion" means physical force or threat of physical force, express or implied, which places a person in fear of immediate death, physical injury to self or another person, fear of the immediate kidnap of self or another person, or fear of any offense under this chapter. Physical resistance on the part of the victim shall not be necessary to meet this definition;

(3) "Mental illness" means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association;

(4) "Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, as defined in KRS Chapter 202B;

(5) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct as a result of the influence of ***an***[~~a controlled or~~] intoxicating substance administered to him without his consent or as a result of any other act committed upon him without his consent;

(6) "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act***. "Physically helpless" also includes a person who has been rendered unconscious or for any other reason is physically unable to communicate an unwillingness to an act as a result of the influence of a controlled substance or legend drug***;

(7) "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party;

(8) "Sexual intercourse" means sexual intercourse in its ordinary sense and includes penetration of the sex organs of one person by a foreign object manipulated by another person. Sexual intercourse occurs upon any penetration, however slight; emission is not required. "Sexual intercourse" does not include penetration of the sex organ by a foreign object in the course of the performance of generally recognized health-care practices; and

(9) "Foreign object" means anything used in commission of a sexual act other than the person of the actor.

Section 7. KRS 510.060 is amended to read as follows:

(1) A person is guilty of rape in the third degree when:

(a) He engages in sexual intercourse with another person who is incapable of consent because he is mentally retarded[~~ or mentally incapacitated~~]; or

(b) Being twenty-one (21) years old or more, he engages in sexual intercourse with another person less than sixteen (16) years old.

(2) Rape in the third degree is a Class D felony.

Section 8. KRS 510.090 is amended to read as follows:

(1) A person is guilty of sodomy in the third degree when:

(a) He engages in deviate sexual intercourse with another person who is incapable of consent because he is mentally retarded[~~ or mentally incapacitated~~]; or

(b) Being twenty-one (21) years old or more, he engages in deviate sexual intercourse with another person less than sixteen (16) years old.

(2) Sodomy in the third degree is a Class D felony.

Section 9. KRS 510.120 is amended to read as follows:

(1) A person is guilty of sexual abuse in the second degree when:

(a) He subjects another person to sexual contact who is incapable of consent because he is mentally retarded[~~ or mentally incapacitated~~];

(b) He subjects another person who is less than fourteen (14) years old to sexual contact; or

(c) Being an employee, contractor, vendor, or volunteer of the Department of Corrections, or a detention facility as defined in KRS 520.010, or of an entity under contract with either the department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he subjects an offender who is incarcerated, supervised, evaluated, or treated by the Department of Corrections, the detention facility, or the contracting entity, to sexual contact. In any prosecution under this paragraph, the defendant may prove in exculpation that, at the time he engaged in the conduct constituting the offense, he and the offender were married to each other.

(2) Sexual abuse in the second degree is a Class A misdemeanor.

The Committee Substitute to **SB 25** is as follows:

SB 25, AN ACT relating to trafficking in, possession of, or use of drugs or controlled substances used to facilitate or used in furtherance of the commission of sexual offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.1412 is amended to read as follows:

(1) A person is guilty of trafficking in a controlled substance in the first degree when he knowingly and unlawfully traffics in: a controlled substance, that is classified in Schedules I or II which is a narcotic drug; a controlled substance analogue; lysergic acid diethylamide; phencyclidine;[~~ or~~] a controlled substance that contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers***; gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of isomers and analogues; or flunitrazepam, including its salts, isomers, and salts of isomers***.

(2) Any person who violates the provisions of subsection (1) of this section shall:

(a) For the first offense be guilty of a Class C felony.

(b) For a second or subsequent offense be guilty of a Class B felony.

Section 2. KRS 218A.1415 is amended to read as follows:

(1) A person is guilty of possession of a controlled substance in the first degree when he knowingly and unlawfully possesses:

a controlled substance that contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers or, that is classified in Schedules I or II which is a narcotic drug; a controlled substance analogue; lysergic acid diethylamide;[~~or~~] phencyclidine***; gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of isomers and analogues; or flunitrazepam, including its salts, isomers, and salts of isomers***.

(2) Possession of a controlled substance in the first degree is:

(a) For a first offense a Class D felony.

(b) For a second or subsequent offense a Class C felony.

Section 3. KRS 510.050 is amended to read as follows:

(1) A person is guilty of rape in the second degree when***:***[~~,~~]

(a) Being eighteen (18) years old or more, he engages in sexual intercourse with another person less than fourteen (14) years old***; or***

(b) He engages in sexual intercourse with another person who is mentally incapacitated.

(2) Rape in the second degree is a Class C felony.

Section 4. KRS 510.080 is amended to read as follows:

(1) A person is guilty of sodomy in the second degree when***:***[~~,~~]

(a) Being eighteen (18) years old or more, he engages in deviate sexual intercourse with another person less than fourteen (14) years old***; or***

(b) He engages in deviate sexual intercourse with another person who is mentally incapacitated.

(2) Sodomy in the second degree is a Class C felony.

Section 5. KRS 510.110 is amended to read as follows:

(1) A person is guilty of sexual abuse in the first degree when:

(a) He subjects another person to sexual contact by forcible compulsion; or

(b) He subjects another person to sexual contact who is incapable of consent because he:

1. Is physically helpless;[~~ or~~]

2. Is less than twelve (12) years old***; or***

3. Is mentally incapacitated.

(2) Sexual abuse in the first degree is a Class D felony.

Section 6. KRS 510.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deviate sexual intercourse" means any act of sexual gratification involving the sex organs of one person and the mouth or anus of another; or penetration of the anus of one person by a foreign object manipulated by another person. "Deviate sexual intercourse" does not include penetration of the anus by a foreign object in the course of the performance of generally recognized health-care practices;

(2) "Forcible compulsion" means physical force or threat of physical force, express or implied, which places a person in fear of immediate death, physical injury to self or another person, fear of the immediate kidnap of self or another person, or fear of any offense under this chapter. Physical resistance on the part of the victim shall not be necessary to meet this definition;

(3) "Mental illness" means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association;

(4) "Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, as defined in KRS Chapter 202B;

(5) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct as a result of the influence of ***an***[~~a controlled or~~] intoxicating substance administered to him without his consent or as a result of any other act committed upon him without his consent;

(6) "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act***. "Physically helpless" also includes a person who has been rendered unconscious or for any other reason is physically unable to communicate an unwillingness to an act as a result of the influence of a controlled substance or legend drug***;

(7) "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party;

(8) "Sexual intercourse" means sexual intercourse in its ordinary sense and includes penetration of the sex organs of one person by a foreign object manipulated by another person. Sexual intercourse occurs upon any penetration, however slight; emission is not required. "Sexual intercourse" does not include penetration of the sex organ by a foreign object in the course of the performance of generally recognized health-care practices; and

(9) "Foreign object" means anything used in commission of a sexual act other than the person of the actor.

Section 7. KRS 510.060 is amended to read as follows:

(1) A person is guilty of rape in the third degree when:

(a) He engages in sexual intercourse with another person who is incapable of consent because he is mentally retarded[~~ or mentally incapacitated~~]; or

(b) Being twenty-one (21) years old or more, he engages in sexual intercourse with another person less than sixteen (16) years old.

(2) Rape in the third degree is a Class D felony.

Section 8. KRS 510.090 is amended to read as follows:

(1) A person is guilty of sodomy in the third degree when:

(a) He engages in deviate sexual intercourse with another person who is incapable of consent because he is mentally retarded[~~ or mentally incapacitated~~]; or

(b) Being twenty-one (21) years old or more, he engages in deviate sexual intercourse with another person less than sixteen (16) years old.

(2) Sodomy in the third degree is a Class D felony.

Section 9. KRS 510.120 is amended to read as follows:

(1) A person is guilty of sexual abuse in the second degree when:

(a) He subjects another person to sexual contact who is incapable of consent because he is mentally retarded[~~ or mentally incapacitated~~];

(b) He subjects another person who is less than fourteen (14) years old to sexual contact; or

(c) Being an employee, contractor, vendor, or volunteer of the Department of Corrections, or a detention facility as defined in KRS 520.010, or of an entity under contract with either the department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he subjects an offender who is incarcerated, supervised, evaluated, or treated by the Department of Corrections, the detention facility, or the contracting entity, to sexual contact. In any prosecution under this paragraph, the defendant may prove in exculpation that, at the time he engaged in the conduct constituting the offense, he and the offender were married to each other.

(2) Sexual abuse in the second degree is a Class A misdemeanor.

SB 170, AN ACT relating to real estate broker liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 376.075 is amended to read as follows:

(1) Any professional engineer, licensed architect, licensed landscape architect, ***real estate broker, or***[~~ and~~] professional land surveyor who performs professional services or services as defined in KRS 322.010(4) for professional engineers, KRS 323.010(3) for architects, KRS 323A.010(3) for landscape architects, ***KRS 324.010(1) for real estate brokers,*** and KRS 322.010(10) for professional land surveyors shall have a lien on the building, structure, land, or project ***relative to***[~~on~~] which the services were performed, to secure the amount of the charges for services with interest as provided in KRS 360.040 and costs.

(2) The provisions of KRS 376.010(1) and (2) shall determine when a lien created under this section shall take precedence over a mortgage or other contract lien or bona fide conveyance for value without notice.

(3) No person who has not contracted directly with the owner or his agent shall acquire a lien under this section.

(4) Any lien provided for under this section shall be dissolved unless the claimant, within six (6) months after he ceases to provide services, files in the office of the county clerk of the county in which the property is situated a statement of the amount due the claimant, with all just credits and setoffs known to him, together with a description of the property intended to be covered by the lien sufficiently accurate to identify it, the name of the owner, if known, and whether the services were furnished by contract with the owner or with a contractor or architect. This statement shall be subscribed and sworn to by the person claiming the lien or by someone in his behalf.

(5) Any lien created under this section shall be dissolved unless an action is brought to enforce the lien within twelve (12) months from the day of filing the statement in the clerk's office as required by subsection (4) of this section. If the lienholder complies with all filing requirements under this section, and does so within the time fixed, his lien shall be valid and effective against any creditor of, or bona fide or other purchaser from, the owner of the property.

(6) The provisions of this section shall in no way abridge or conflict with the provisions of KRS 376.210 which provide for liens on public improvements, and any potential lien or valid lien of a professional engineer, architect, landscape architect, *real estate broker,* or professional land surveyor on a public improvement shall be governed by KRS 376.210.

(7) No real estate broker shall acquire a lien under this section relative to newly constructed residential real estate unless the purchaser has agreed in writing to directly compensate such broker for performing brokerage services related to the transaction.

(8) No real estate broker shall acquire a lien under this section unless:

(a) The owner or the owner's authorized agent:

1. Lists the subject property with the broker under the terms of a written agreement to sell, lease, or otherwise convey any interest in the subject property; or

2. Agrees in a written agreement to pay the broker a fee for his or her services as a buyer's representative; and

(b) The broker or the broker's affiliated sales associate provides licensed services that result, during the term of a written agreement described in paragraph (a) of this subsection, in the procuring of a person or entity ready, willing, and able to purchase, lease, or otherwise accept a conveyance of the property or any interest in the property:

1. Upon terms contained in a written agreement described in paragraph (a) of this subsection; or

2. Upon terms that are otherwise acceptable to the owner or the owner's authorized agent as evidenced by a written agreement to convey any interest in the property signed by the owner or the owner's authorized agent.

Motions, Petitions, and Communications (Continued)

Representative Ford moved the adoption of the following **Legislative Citation No. 74**.

The House of Representatives of the Commonwealth of Kentucky hereby offers a most enthusiastic welcome to Betty Lou York and Glenn Thompson as they visit the House Chambers during a day in the Regular Session of the 2002 Kentucky General Assembly to provide entertainment to the members of this body. As two of the beloved performers at Renfro Valley, Kentucky's Country Music Capitol, these remarkable artists have performed together before as part of the music and comedy routine known as the "Front Porch Pickin'" show and are widely regarded for their individual talents as a comedienne and guitarist respectively. Inasmuch as Betty Lou York and Glenn Thompson have provided a welcome respite from the diligent activities of this legislative session by their laudable performance, the members of this distinguished body are honored to join Representative Danny Ford in offering sincerest gratitude to two of Kentucky's finest performers for the effort that they have put forth in this worthwhile endeavor and in extending to them best wishes for future prosperity and success. Done in Frankfort, Kentucky, this fourth day of March, in the year two thousand and two.

Legislative Citation No. 74 was adopted without objection.

Representative J. Lee moved to withdraw **HB 862**. Agreed.

Representative Baugh moved to withdraw **HJR 17** and **HB 674**. Agreed.

Representative Riggs moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Riggs moved that he be recorded as voting "yea" on **HB 625**. Agreed.

Representative Denham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Denham moved that he be recorded as voting "yea" on **HB 673**. Agreed.

Representative Bowling moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bowling moved that he be recorded as voting "nay" on **HB 693**. Agreed.

Representative Moberly moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Moberly moved that he be recorded as voting "yea" on **HB 583** and **HB 625**. Agreed.

Representative Sims moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Sims moved that she be recorded as voting "yea" on **HB 625** and **HJR 140**. Agreed.

Representative C. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative C. Belcher moved that she be recorded as voting "yea" on **HB 715**. Agreed.

Representative Ford moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ford moved that his vote be changed from "nay" to "yea" on **HB 625**. Agreed.

Representative Crall moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Crall moved that he be recorded as voting "yea" on **HCR 147** and **HB 427**. Agreed.

Representative Collins moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Collins moved that he be recorded as voting "yea" on **HB 189, HB 190, HB 198, HB 436, HB 470, HB 473, HB 381, HB 457, HB 526, HB 531, HB 109, HB 621, HB 574, HB 98, HB 357, HB 400, HB 549, HB 87, HB 329, HB 333, HB 344, HB 483, HB 484, HCR 52, HCR 53, HCR 54, HCR 55, HCR 57, HCR 58,** and **HCR 59**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 792**, by Representative J. Turner:

On page 24, line 2, after "(14)", by deleting the rest of the line; and

On page 24, line 3, by deleting all of the line through "***emergency***"; and

On page 24, starting on line 3, and continuing to the "." on line 15, by removing the brackets and strikethroughs; and

On page 24, line 4, after "men,", by inserting: "***unless the commissioner finds that a safety hazard exists which cannot be corrected, the belt transport will be allowed and*** ".

Floor Amendment No. 1 to the Committee Substitute to **HB 662**, by Representative Haydon:

On page 9, line 25, delete "*3*" and insert "*4*" in lieu thereof;

On page 10, line 6, delete "*3*" and insert "*4*" in lieu thereof; and

On page 10, line 8, delete "*3*" and insert "*4*" in lieu thereof.

Floor Amendment No. 1 to the Committee Substitute to **HB 76**, by Representative Haydon:

On page 4, after line 2, by inserting the following:

"***(7) Any parent while going to, placing, or returning from placing a newborn infant under the provisions of this section shall be immune from arrest or service of criminal or civil process.***", and

On page 4, after line 24, by inserting the following:

"***(6) Any parent while going to, placing, or returning from placing a newborn infant under the provisions of this section shall be immune from arrest or service of criminal or civil process.***".

Floor Amendment No. 2 to the Committee Substitute to **HB 76**, by Representative Haydon:

On page 2, line 27, by deleting same,

On page 3, line 1, by deleting same,

On page 4, lines 1 and 2, by deleting same,

On page 4, lines 23 and 24, by deleting same, and

On page 5, line 7, after "*this Act.*" by deleting the remainder of the line, and

On page 5, line 8, by deleting same.

Floor Amendment No. 3 to the Committee Substitute to **HB 553**, by Representative Feeley:

On page 3, beginning on line 14, by deleting all of Section 2 through the end of line 11 on page 7 and insert in lieu thereof the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Board of Education shall develop a plan to incorporate the recommendations of the United States Surgeon General related to overweight and physical activity in schools.

(2) The Kentucky board is encouraged to promote local school districts to implement thirty (30) minutes of structured, moderate to vigorous physical activity in at least fifteen (15) minute segments. If any administrative regulations are promulgated under this subsection, they shall include alternative plans and optional activities for integration of daily physical activity during the school day.".

Floor Amendment No. 1 to **HB 755**, by Representative Tapp:

On page 4, after line 5, by inserting:

"*(15) Motor vehicles used to transport children to events or camps run by, or sponsored by, the Kentucky Sheriffs Association.*".

Floor Amendment No. 3 to the Committee Substitute to **HB 598**, by Representative Riggs:

On Page 8, line 18, after "*($1,000)*", by inserting and underlining, "*, except for an area planning commission which may charge an application fee up to a maximum of two thousand five hundred dollars ($2,500) which may be adjusted annually based on the consumer price index*".

Floor Amendment No. 4 to the Committee Substitute to **HB 598**, by Representative Riggs:

On Page 13, line 27, by deleting it in its entirety and inserting in lieu thereof,

"Section 9. Whereas there is rapidly expanding growth in the cellular communications area and there is a serious need for increased local participation in this area, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.".

Floor Amendment No. 5 Title to **HB 598**, by Representative Riggs:

Amend title to read;

"AN ACT relating to antenna towers and declaring an emergency.".

Floor Amendment No. 1 to the Committee Substitute to **HB 668**, by Representative Palumbo:

On page 1, line 21, after "*to*" by deleting "*:*" and inserting "*the cause or responsibility for fires, explosions, losses, accidents, or injuries to persons or to property, and matters related thereto;*"; and

On page 1, by deleting lines 22 through 25 in their entirety; and

On page 2, by deleting lines 1 through 5 in their entirety; and

On page 2, line 15, after "*shall*" by adding "*practice private fire and explosion investigating,*"; and

On page 2, line 16, after "*investigator*" by adding "*,*"; and

On page 16, by deleting lines 7 and 8 in their entirety; and

On page 16, line 9, by deleting "*(2)*" and inserting "*(1)*" in lieu thereof; and

On page 16, line 9, by deleting "*A state or local peace officer or government employee*" and inserting "*An officer or employee of the United States, this state, or any political subdivision thereof,*"; and

On page 16, by deleting lines 10 and 11 in their entirety; and

On page 16, line 12, by deleting "*(4)*" and inserting "*(2)*" in lieu thereof; and

On page 16, line 13, after "*law;*" by adding "*or*"

On page 16, line 14, by deleting "*(5)*" and inserting "*(3)*" in lieu thereof; and

On page 16, line 17, after "*explosion*" by deleting "*; or*" and inserting "*.*" in lieu thereof; and

On page 16, by deleting lines 18 and 19 in their entirety.

Floor Amendment No. 2 to **SB 2**, by Representative Nunn:

On page 12, line 25, after "diagnoses;" by bracketing and striking through "and";

On page 13, line 3, after "efforts" by inserting "***; and***

(f) Recommend statutory, regulatory, and policy changes to improve access to mental health screening, evaluation, and treatment for juveniles in detention centers and for prisoners of all county jails and city and county jails in Kentucky by July 15, 2003"

On page 21, after line 3, by inserting the following:

"Section 10. KRS 441.105 is amended to read as follows:

The jailer shall:

(1) Submit a quarterly report to the fiscal court concerning the physical condition of the jail, the number of jail personnel and personnel needs, and other matters requested by the fiscal court.

(2) Submit a monthly report to the department, on forms supplied by the department, containing, but not limited to, the following information on each prisoner:

(a) The unit of government whose law the prisoner is charged with violating, the statute or ordinance the prisoner is charged with violating, and whether the charge is a felony or misdemeanor;

(b) The status of the prisoner, whether pending trial or post conviction;

(c) The age and sex of the prisoner; and

(d) The county responsible for the incarceration of the prisoner.

(3) Submit a report to the department within twenty-four (24) hours of any prisoner's suicide attempt or any prisoner's suicide.

(4) Submit notice to the department, within thirty (30) days of the effective date of this Act and prior to July 1 each year thereafter, of the working arrangement for mental health screening, evaluation, and treatment of prisoners. The department shall send a copy of the notice to the Department for Mental Health and Mental Retardation Services of the Cabinet for Health Services.

Section 11. KRS 441.115 is amended to read as follows:

(1) For the purpose of raising the level of competence of jailers and jail personnel, the department shall maintain a jail staff training program to provide training for jailers and jail personnel consistent with the standards promulgated pursuant to KRS 441.055 and shall keep records of jailers and jail personnel who satisfactorily complete basic and annual continuing education. The training program shall include training on the human immunodeficiency virus infection and acquired immunodeficiency syndrome approved by the Cabinet for Health Services***, and mental health screening and suicide prevention***. A curriculum advisory committee composed of jailers, their representatives, and recognized professionals in the field of jail administration shall advise the department concerning the training needs of jailers and jail personnel. The jail staff training program shall be directed and staffed, in coordination with the Governmental Services Center at Kentucky State University, by knowledgeable persons who have sufficient experience, training, and education in jail operations. The department shall not charge a fee for training jailers, their deputies, or jailers-elect.

(2) Beginning in August, 1982, each jailer shall receive an expense allowance to help defray the costs of his participation in the jail staff training program. The expense allowance shall be in the amount of three hundred dollars ($300) per month payable out of the State Treasury. Expense allowance payments shall be discontinued if the jailer fails to satisfactorily complete annual continuing training. Expense allowance payments shall be resumed following a discontinuance for failure to satisfactorily complete basic or annual training only upon the jailer's satisfactory completion of the training.

(3) The allowance authorized in subsections (2) and (4) of this section shall be considered as operating expenses of the jailer's office and shall not be considered as part of his compensation. Jailers shall not be required to keep records verifying the expenditures from the allowance provided by the state.

(4) In order to receive the expense allowance for their first year in office, jailers who have been elected to office for the first time, shall, before taking office, successfully complete a training program designed for new jailers and conducted by the personnel of the jail staff training program. This provision shall not apply if the jailer-elect is ill and unable to complete the training before taking office. In such cases, the jailer-elect shall successfully complete a new jailer training program during his first year in office in order to receive the expense allowance. The county or urban-county government in which the jailer-elect serves shall pay out of the jail budget, once he takes office, all necessary and reasonable travel expenses incurred by the jailer-elect in attending the new jailer training program.

(5) All jailers shall successfully complete the training required. If a jailer does not successfully complete the required training within the time specified, he shall not receive the expense allowance specified in subsection (2) of this section until he successfully completes the required training.

Section 12. KRS 441.055 is amended to read as follows:

(1) The Department of Corrections shall for those counties which elect to house state prisoners in their jail:

(a) Adopt the recommendations of the Jail Standards Commission created pursuant to Executive Order Number 81-1026 and promulgate regulations pursuant to KRS Chapter 13A establishing minimum standards for jails. These standards shall include, but not be limited to, rules governing the following areas:

1. Health and safety conditions;

2. Fire safety;

3. Jail operations, recordkeeping, and administration;

4. Curriculum of basic and continuing annual training for jailers and jail personnel, including ***mental health screening, suicide prevention, and*** training relating to juvenile holding facilities;

5. Custody, care, and treatment of prisoners;

6. Medical care***, including working agreements for mental health screening, evaluation, and treatment of prisoners***; and

7. Jail equipment, renovation, and construction;

(b) Develop a jail standards review process, which shall include the participation of persons knowledgeable of jail operations to review and amend the standards as necessary. The jail standards shall be reviewed no later than December 31, 1992, and at least every two (2) years thereafter. Fifty percent (50%) of the participants in the review process shall be appointed from persons representing county interests and fifty percent (50%) shall be appointed from persons representing state interests; and

(c) Provide technical assistance and consultation to local governments in order to facilitate compliance with standards.

(2) The department shall, for those counties that elect not to hold state prisoners in their jails, adopt the recommendations of the Jail Standards Commission and promulgate administrative regulations pursuant to KRS Chapter 13A to establish minimum standards for those jails. These standards shall be limited to health and life safety***, and working agreements for mental health screening, evaluation, and treatment***.

(3) The department may establish classifications of jails based on the maximum permissible period of incarceration or other criteria and promulgate standards for each class of jail.

Section 13. KRS 210.400 is amended to read as follows:

Subject to the provisions of this section and the policies and regulations of the secretary of the Cabinet for Health Services, each community mental health-mental retardation board shall:

(1) Review and evaluate mental health and mental retardation services provided pursuant to KRS 210.370 to 210.460, and report thereon to the secretary of the Cabinet for Health Services, the administrator of the program, and, when indicated, the public, together with recommendations for additional services and facilities;

(2) Recruit and promote local financial support for the program from private sources such as community chests, business, industrial and private foundations, voluntary agencies, and other lawful sources, and promote public support for municipal and county appropriations;

(3) Promote, arrange, and implement working agreements with other social service agencies, both public and private, and with other educational***, correctional,*** and judicial agencies;

(4) Adopt and implement policies to stimulate effective community relations;

(5) Be responsible for the development and approval of an annual plan and budget;

(6) Act as the administrative authority of the community mental health and mental retardation program; and

(7) Oversee and be responsible for the management of the community mental health and mental retardation program in accordance with the plan and budget adopted by the board and the policies and regulations issued under KRS 210.370 to 210.480 by the secretary of the Cabinet for Health Services.

Floor Amendment No. 3 Title to **SB 2**, by Representative Nunn:

By amending the title to read "AN ACT relating to mental health and substance abuse."

Floor Amendment No. 2 to the Committee Substitute to **HB 145**, by Representative Vincent:

On page 3 line 1, after "department." insert "***If the division places a juvenile in a county other than the county of adjudication or sentencing, then the division shall be responsible for notifying a department caseworker in the county of placement of this fact. The division shall also notify the district court in the county of placement of the juvenile's complete offense record.***";

On page 3, from lines 2 through 18 delete all new language;

On page 6 line 19, delete "***days***" and insert in lieu thereof "***days***";

On page 17, line 15 delete "***her***" and insert in lieu thereof "***she***";

On page 25, line 8 delete all new language;

On page 27, from line 15 through page 28, line 26 delete Sections 19 and 20 in their entirety;

On page 28, line 27 delete "21" and insert in lieu thereof "19";

On page 30, from line 16 through 18 delete all new language and insert in lieu thereof the following:

" ***The Department of Juvenile Justice shall provide a child's offense history information pursuant to this section to the superintendent of the local school district in which the child, who is committed to the department, is placed.***"; and

On page 30, delete "Section 22." and insert in lieu thereof the following:

"Section 20. KRS 600.010 is amended to read as follows:

(1) KRS Chapters 600 to 645 shall be known as the Kentucky Unified Juvenile Code.

(2) KRS Chapters 600 to 645 shall be interpreted to effectuate the following express legislative purposes:

(a) The Commonwealth shall direct its efforts to promoting protection of children; to the strengthening and encouragement of family life for the protection and care of children; to strengthen and maintain the biological family unit; and to offer all available resources to any family in need of them;

(b) It also shall be declared to be the policy of this Commonwealth that all efforts shall be directed toward providing each child a safe and nurturing home;

(c) The court shall show that other less restrictive alternatives have been attempted or are not feasible in order to insure that children are not removed from families except when absolutely necessary;

(d) Any child brought before the court under KRS Chapters 600 to 645 shall have a right to treatment reasonably calculated to bring about an improvement of his ***or her*** condition***, and, to the extent possible, have that treatment administered in the county of residence of the custodial parent or parents or in the nearest available county***;

(e) KRS Chapter 635 shall be interpreted to promote the best interests of the child through providing treatment and sanctions to reduce recidivism and assist in making the child a productive citizen by advancing the principles of personal responsibility, accountability, and reformation, while maintaining public safety, and seeking restitution and reparation;

(f) KRS Chapter 640 shall be interpreted to promote public safety and the concept that every child be held accountable for his or her conduct through the use of restitution, reparation, and sanctions, in an effort to rehabilitate delinquent youth; and

(g) It shall further be the policy of this Commonwealth to provide judicial procedures in which rights and interests of all parties, including the parents and victims, are recognized and all parties are assured prompt and fair hearings. Unless otherwise provided, such protections belong to the child individually and may not be waived by any other party.

Section 21. ".

Floor Amendment No. 1 to the Committee Substitute to **HB 637**, by Representative Jenkins:

On page 62, line 1, by deleting "***A member who applies for and is***";

On page 62, by deleting lines 2 to 16 in their entirety;

On page 62, line 17, by deleting "***subject to the income limitations as they existed on June 30, 2002.***";

On page 62, line 20, by removing the bracket before "~~If~~" and deleting the strikethroughs on the remainder of the line;

On page 62, lines 21 to 27, by removing the strikethroughs;

On page 63, line 1, by deleting the strikethroughs and deleting the bracket after "~~System~~";

On page 64, line 7, by deleting "***, or becomes disqualified from receiving a portion***";

On page 64, line 8, by deleting "***of those benefits due to income from other than covered employment,***";

On page 64, line 16, by deleting "***The Kentucky Teachers' Retirement System***"; and

On page 64, by deleting lines 17 and 18 in their entirety.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills:

HB 140, Representative Bratcher

HB 454, Representative Bratcher

HB 547, Representative Draud

HB 553, Representatives Nunn, Palumbo, and Yonts

HB 583, Representative Pullin

HB 584, Representative Graham

HB 602, Representatives Ford and Meeks

HB 672, Representative Bruce.

The following member filed a request to have her name withdrawn as a co-sponsor of a Bill:

HB 496, Representative Palumbo.

Announcements

The following meetings were announced:

Budget Review Subcommittee on Human Services: no meeting today, meeting Thursday, March 7, 2002, 1:00 p.m.

Budget Review Subcommittee on Justice, Corrections, and Judiciary: no meeting today, meeting Thursday, March 7, 2002, 1:00 p.m.

State Government: upon adjournment, Room 149

Appropriations and Revenue: upon adjournment, Thursday, March 7, 2002, and Friday, March 8, 2002

Local Government: Thursday, March 7, 2002, 8:00 a.m.

Transportation: Thursday, March 7, 2002, 10:00 a.m.

Budget Review Subcommittee on Transportation: Thursday, March 7, 2002, noon, Room 113

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m. on Thursday, March 7, 2002.

The motion that the House adjourn until 2:00 p.m., Thursday, March 7, 2002, was adopted by voice vote.

THURSDAY, MARCH 7, 2002

FORTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Father Michael Ramler, Good Shepherd Catholic Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

Kyle Roten sang the National Anthem.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of Wednesday, March 6, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SB 180**

Banking and Insurance: **SCR 34**

Health and Welfare: **SB 113, 185**

Judiciary: **SB 97**

Licensing and Occupations: **SB 230**

Local Government: **SB 242**

Natural Resources and Environment: **SB 194**

House Floor: **HR 222**

Report of Committees

The Committee on Rules reported that **HB 510, HB 610, HB 698, SB 74, SB 116,** and **SB 131** have been posted for passage in the Orders of the Day for March 8, 2002.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 38, HCR 132, HCR 218, HB 791, HB 857, SB 121**

Appropriations and Revenue: **HB 507, HB 657, HB 658, HJR 87, HJR 214, HJR 133, HJR 134**

Banking and Insurance: **SB 41, SB 146**

Report of Committees (Continued)

The Committee on Health and Welfare reported **HB 701**, with Committee Substitute attached thereto, **HCR 136,** with Committee Substitute and Committee Amendment attached thereto, **HJR 189, HJR 205,** with Committee Substitute attached thereto, and **SCR 76,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 701, AN ACT relating to death certificates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) When a physician certifies the cause of death on a death certificate the physician shall cause the death certificate to be

notarized.

(2) When a coroner certifies the cause of death on a death certificate the coroner shall cause the death certificate to be notarized.

(3) If no autopsy is performed on the deceased, the cause of death and other information on a notarized death certificate shall be recognized for all legal purposes as prima facie evidence of the facts contained therein.

(4) If an autopsy is performed and a preliminary cause of death has been determined, pending verification of the results of the autopsy, the cause of death and other information on a notarized death certificate shall be recognized for all legal purposes as prima facie evidence of the facts contained therein.

(5) A notarized death certificate shall be recognized as the legal evidence of death, cause of death, and other information contained therein from the time it is notarized, unless it is later amended as provided by law.

(6) The coroner or physician signing the notarized death certificate shall provide the notarized death certificate to the funeral director for the purpose of authorizing disposal of the body in a manner consistent with law and for filing with the registrar of vital statistics.

(7) The coroner or physician shall also provide an additional copy of the notarized death certificate to the funeral director to provide to the legal representative or family of the deceased.

Section 2. KRS 72.465 is amended to read as follows:

(1) The coroner shall in his sound discretion determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of KRS 72.410 to 72.470, and if inquiry reveals that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize that physician to sign the ***notarized*** certificate of death. In all other instances, the coroner shall sign the ***notarized*** death certificate in coroner's cases.

(2) In the event an autopsy is performed under the provisions of KRS 72.410 to 72.470 subsequent to the time that a ***notarized*** death certificate has been filed with the Cabinet for Health Services, Office of Vital Statistics, the coroner shall notify the Office of Vital Statistics of any change that may be necessary in the original certificate.

Section 3. KRS 213.011 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Health Services;

(2) "Dead body" means a human body or parts of the human body from the condition of which it reasonably may be concluded that death recently occurred;

(3) "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy; the death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. This definition shall exclude induced termination of pregnancy;

(4) "File" means the presentation of a vital record provided for in this chapter for registration by the Office of Vital Statistics;

(5) "Final disposition" means the burial, interment, cremation, removal from the Commonwealth, or other authorized disposition of a dead body or fetus;

(6) "Induced termination of pregnancy" means the purposeful interruption of pregnancy with the intention other than to produce a live-born infant or to remove a dead fetus and which does not result in a live birth. This definition shall exclude management of prolonged retention of product of conception following fetal death;

(7) "Institution" means any establishment, public or private, which provides inpatient medical, surgical, or diagnostic care or treatment or nursing, custodial, or domicilary care, or to which persons are committed by law;

(8) "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy which, after the expulsion or extraction, breathes, or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached;

(9) "***Notarized***~~[Provisional]~~ death certificate" means ***a notarized***~~[an interim]~~ certificate identifying the deceased and authorizing a funeral director, or person acting as such, to take custody of the body and, except for cremation, to make final disposition;

(10) "Registration" means the acceptance by the Office of Vital Statistics and the incorporation of vital records provided for in this chapter into its official records;

(11) "System of vital statistics" means the registration, collection, preservation, amendment, and certification of vital records and the collection of other reports required by this chapter;

(12) "Secretary" means the secretary for health services;

(13) "Sudden infant death syndrome" means the death of an ostensibly healthy child who is two (2) weeks of age or older but less than three (3) years of age, which occurs suddenly and unexpectedly, with no known or apparent cause, and which

remains unexplained after the performance of an autopsy;

(14) "Vital records" means certificates or reports of birth, death, fetal death, marriage, dissolution of marriage, or annulment, and data related thereto;

(15) "Vital statistics" means the data derived from certificates and reports of birth, death, fetal death, induced termination of pregnancy, marriage, dissolution of marriage, and related reports;

(16) "Certificate" means the certificate of birth, death, fetal death, marriage, dissolution of marriage, or annulment as required by this chapter;

(17) "Commission" means the Commission for Children with Special Health Care Needs;

(18) "Hard of hearing infant" means a child at birth with a significant hearing loss which prevents the acquisition of speech and language through normal channels; and

(19) "Hearing risk certificate" means the certificate that includes questions which identify newborn babies with a higher risk than normal for hearing loss.

Section 4. KRS 213.076 is amended to read as follows:

(1) A ***notarized*** certificate of death[~~ or a provisional certificate of death~~] for each death which occurs in the Commonwealth shall be filed with the cabinet or as otherwise directed by the state registrar prior to final disposition, and it shall be registered if it has been completed and filed in accordance with this section. The funeral director, or person acting as such, who first takes custody of a dead body shall be responsible for filing the ***notarized*** certificate of death. The funeral director, or person acting as such shall obtain the required personal and statistical particulars from the person best qualified to supply them over the signature and address of the informant. The funeral director, or person acting as such, shall within five (5) days of the death, present the certificate to the attending physician, if any, or to the health officer or coroner as directed by the state registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record as required by this chapter.

(a) It shall be unlawful for an institution to release a dead human body until the funeral director, or person acting as such, has completed and filed with the local registrar or person in charge of the institution, a ***notarized***[~~provisional~~] certificate of death. If death occurs outside an institution, the ***notarized***[~~provisional~~] certificate shall be filed with the local registrar by the funeral director, or person acting as such, prior to final disposition of the dead body. A copy of the ***notarized***[~~provisional~~] certificate of death signed by the person with whom it was filed, shall constitute authority for the possession, transportation, and, except for cremation, final disposition of the body.

(b) All persons having in their possession a completed ***notarized***[~~provisional~~] certificate of death shall file the certificate at not more than weekly intervals with the local registrar.

(c) If the place of death is unknown but the dead body is found in the Commonwealth, the ***notarized*** certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation subject to amendment upon completion of any postmortem examination required to be performed.

(d) If death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, and the place where it is first removed shall be considered the place of death. If a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, but the ***notarized*** certificate shall show the actual place of death insofar as can be determined.

(2) If any ***notarized*** certificate of death is incomplete or unsatisfactory, the state registrar shall call attention to the defects in the certificate and require the person responsible for the entry to complete or correct it. The state registrar may also require additional information about the circumstances and medical conditions surrounding a death in order to properly code and classify the underlying cause.

(3) The medical certification shall be completed, signed, ***notarized,*** and returned to the funeral director within five (5) working days after presentation to the physician, dentist, or chiropractor in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by KRS 72.400 to 72.475. In such cases, the coroner shall complete***,***[~~ and~~] sign***, and cause the notarization of*** the certificate within five (5) days after receiving results of the inquiry as required by KRS 72.400 to 72.475. In the absence of the physician, dentist, or chiropractor, or with such person's approval, the ***notarized*** certificate may be completed and signed by his associate physician, dentist, or chiropractor, or the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, or a physician employed by the local health department, if the individual has access to the medical history of the case and death is due to natural causes.

(4) If death occurs more than thirty-six (36) hours after the decedent was last treated or attended by a physician, dentist, or chiropractor, the case shall be referred to the coroner for investigation to determine and certify the cause of death. In the event that a coroner is not available to sign the certificate and there is no duly appointed deputy, the county judge/executive shall appoint a competent person to investigate the death and certify to its cause.

(5) The physician, dentist, chiropractor, or coroner who certifies to the cause of death shall return the ***notarized*** certificate to the funeral director, or person acting as such, who, in turn, shall file the certificate directly with the Office of Vital Statistics. Any certified copies of the record requested at the time of filing shall be issued in not more than two (2) working days.

(6) The Office of Vital Statistics shall provide self-addressed, color-coded envelopes for the funeral homes in the Commonwealth of Kentucky.

(7) Three (3) free verification-of-death statements shall be provided to the funeral director by the Office of Vital Statistics for every death in the Commonwealth of Kentucky.

(8) The body of any person whose death occurs in Kentucky shall not be interred, deposited in a vault or tomb, cremated or otherwise disposed of, or removed from or into any registration district, until a ***notarized***~~[provisional]~~ certificate of death has been filed with the local registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the Cabinet for Health Services to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the Cabinet for Health Services and the local health department. The Cabinet for Health Services shall identify by regulation those communicable diseases which require blood and body fluid precautions. If a person who has been diagnosed as being infected with a communicable disease for which blood and body fluid precautions are required, dies within a health facility as defined in KRS 216B.015, the facility shall notify any embalmer or funeral director to whom the body will be transported of the need for such precautions. The notice shall be provided by including the statement "Blood and Body Fluid Precautions" on the provisional report-of-death form as prescribed by the Cabinet for Health Services. Lack of this notice shall not relieve any embalmer or funeral director from taking universal blood and body fluid precautions as are recommended by the United States Department of Health and Human Services, Centers for Disease Control for Morticians' Services. No embalmer or funeral director shall charge more for embalming the remains of a person with a communicable disease which requires blood and body fluid precautions than the price for embalming services listed on the price list funeral providers are required to maintain and provide to consumers pursuant to 16 C.F.R. Sec. 453.2 (1988).

(9) A burial-transit permit for the final disposition issued under the law of another state which accompanies a dead body or fetus brought into the Commonwealth shall be the authority for final disposition of the body or fetus in the Commonwealth and may be accepted in lieu of a ***notarized*** certificate of death. There shall be noted on the face of the record made for return to the local registrar that the body was shipped to Kentucky for interment and the actual place of death.

(10) Nothing in this section shall be construed to delay, beyond a reasonable time, the interment or other disposition of a body unless the services of the coroner or the health officer are required or the Department for Public Health deems it necessary for the protection of the public health. If compliance with this section would result in unreasonable delay in the disposition of the body the funeral director, or person acting as such, shall file with the local registrar or deputy registrar prior to interment a ***notarized***~~[provisional]~~ certificate of death which shall contain the name, date, and place of death of the deceased, the name of the medical certifier, and an agreement to furnish within ten (10) days a complete and satisfactory ***notarized*** certificate of death.

(11) No sexton or other person in charge of any place in which interment or other disposition of dead bodies is made shall inter or allow interment or other disposition of a dead body or fetus unless it is accompanied by a copy of the ***notarized***~~[provisional]~~ certificate of death. The sexton, or if there is no sexton, the funeral director, or person acting as such, shall enter on the ***notarized***~~[provisional]~~ certificate over his signature, the date, place, and manner of final disposition and file the ***notarized*** certificate within five (5) days with the local registrar.

(12) Authorization for disinterment, transportation, and reinterment or other disposition shall be required prior to disinterment of any human remains. The authorization shall be issued by the state registrar upon proper application. The provisions of this subsection shall apply to all manners of disposition except cremation and without regard for the time and place of death. The provisions of KRS 381.765 shall not apply to remains removed for scientific study and the advancement of knowledge.

(13) After a ***notarized*** death certificate has been on file for five (5) years, it may not be changed in any manner except upon order of a court. Prior to that time, requests for corrections, amendments, or additions shall be accompanied by prima facie evidence which supports the requested change.

Section 5. KRS 213.091 is amended to read as follows:

(1) If a death occurring in the Commonwealth has not been registered within one (1) year from the date of death, a ***notarized*** certificate of death may be filed in accordance with regulation of the cabinet pursuant to KRS Chapter 13A. The ***notarized*** certificate shall be registered subject to the evidentiary requirements the cabinet shall by regulation prescribe to substantiate the alleged facts of death.

(2) Any ***notarized*** certificate of death registered one (1) year or more after the date of death shall be marked "delayed" and shall show on the face of the certificate the date of the delayed registration.

Section 6. KRS 213.146 is amended to read as follows:

(1) Every person in charge of an institution shall keep a record of personal data concerning each person admitted or confined

to the institution. This record shall include the information required for certificates of birth and death and the reports of fetal death and induced termination of pregnancy required by this chapter. The record shall be made at the time of admission from information provided by the person being admitted or confined but, if it cannot be so obtained, the information shall be obtained from relatives or other persons acquainted with the facts. The name and address of the person providing the information shall be a part of the record.

(2) If a dead body or dead fetus is released or disposed of by an institution, the person in charge of the institution shall keep a record showing the name of the decedent, date of death, name and address of the person to whom the body or fetus is released, and the date of removal from the institution. If final disposition is made by the institution, the date, place, and manner of disposition shall also be recorded on the ***notarized*** certificate of death or fetal death and filed in accordance with KRS 213.076 and 213.096.

(3) A funeral director, embalmer, sexton, or other person who removes from the place of death, transports, or makes final disposition of a dead body or fetus shall, in addition to filing any certificate or other report required by this chapter or regulation promulgated hereunder, keep a record which shall identify the body and the information pertaining to the persons receipt, removal, delivery, burial, or cremation of the body as may be required by regulations adopted by the cabinet.

(4) Records maintained under this section shall be retained for a period of not less than five (5) years and shall be made available for inspection by the cabinet or its designee upon request.

Section 7. KRS 391.300 is amended to read as follows:

As used in KRS 391.305 to 391.360, unless the context otherwise requires:

(1) "Account" means a contract of deposit of funds between a depositor and a financial institution, and includes a checking account, savings account, certificate of deposit, share account and other like arrangement;

(2) "Beneficiary" means a person named in a trust account as one for whom a party to the account is named as trustee;

(3) "Financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, building and loan associations, savings and loan companies or associations, and credit unions;

(4) "Joint account" means an account payable on request to one (1) or more of two (2) or more parties whether or not mention is made of any right of survivorship;

(5) A "multiple-party account" is any of the following types of account: (i) a joint account, (ii) a P.O.D. account, or (iii) a trust account. It does not include accounts established for deposit of funds of a partnership, joint venture, or other association for business purposes, or accounts controlled by one (1) or more persons as the duly authorized agent or trustee for a corporation, unincorporated association, charitable or civic organization or a regular fiduciary or trust account where the relationship is established other than by deposit agreement;

(6) "Net contribution" of a party to a joint account as of any given time is the sum of all deposits thereto made by or for him, less all withdrawals made by or for him which have not been paid to or applied to the use of any other party, plus a pro rata share of any interest or dividends included in the current balance. The term includes, in addition, any proceeds of deposit life insurance added to the account by reason of the death of the party whose net contribution is in question;

(7) "Party" means a person who, by the terms of the account, has subject to request, a present right, exercisable alone or jointly with one (1) or more other parties, to payment from a multiple-party account. A P.O.D. payee or beneficiary of a trust account is a party only after the account becomes payable to him by reason of his surviving the original payee or trustee. Unless the context otherwise requires, it includes a guardian, conservator, personal representative, or assignee, including an attaching creditor, of a party. It also includes a person identified as a trustee of an account for another whether or not a beneficiary is named, but it does not include any named beneficiary unless he has a present right of withdrawal;

(8) "Payment" of sums on deposit includes withdrawal, payment on check or other directive of a party, and any pledge of sums on deposit by a party and any set-off, or reduction or other disposition of all or part of an account pursuant to a pledge;

(9) "Proof of death" includes a ***notarized*** death certificate or record or report which is prima facie proof of death;

(10) "P.O.D. account" means an account payable on request to one (1) person during lifetime and on his death to one (1) or more P.O.D. payees, or to one (1) or more persons during their lifetimes and on the death of all of them to one (1) or more P.O.D. payees;

(11) "P.O.D. payee" means a person designated on a P.O.D. account as one to whom the account is payable on request after the death of one (1) or more persons;

(12) "Request" means a proper request for withdrawal, or a check or order for payment, which complies with all conditions of the account, including special requirements concerning the necessary signature or number of signatures of the parties to the account which may be required for a proper request and regulations of the financial institution; but if the financial institution conditions withdrawal or payment on advance notice, for purposes of KRS 391.305 to 391.360, the request for withdrawal or payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for withdrawal;

(13) "Sums on deposit" means the balance payable on a multiple-party account including interest, dividends, and in addition

any deposit life insurance proceeds added to the account by reason of the death of a party;

(14) "Trust account" means an account in the name of one (1) or more parties as trustee for one (1) or more beneficiaries where the relationship is established by the form of the account and the deposit agreement with the financial institution and there is no subject of the trust other than the sums on deposit in the account; it is not essential that payment to the beneficiary be mentioned in the deposit agreement. A trust account does not include a regular trust account under a testamentary trust or a trust agreement which has significance apart from the account, or a fiduciary account arising from a fiduciary relation such as attorney-client;

(15) "Withdrawal" includes payment to a third person pursuant to check or other directive of a party;

(16) A financial institution "receives" an order or notice under KRS 391.305 to 391.360 when it is duly delivered at the place of business at which the multiple-party account was originally established or at any other place held out by the financial institution as the place for receipt of such communication.

Section 8. KRS 397.1005 is amended to read as follows:

In addition to the rules of evidence in courts of general jurisdiction, for the purposes of KRS 397.1001 to 397.1007 only, the following rules relating to a determination of death and status shall apply:

(1) Death shall be deemed to occur when the requirements of KRS 446.400 have been met.

(2) A certified or authenticated copy of a ***notarized*** death certificate purporting to be issued by an official or agency of the place where the death purportedly occurred shall be prima facie evidence of the fact, place, date, and time of death and the identity of the decedent.

(3) A certified or authenticated copy of any record or report of a governmental agency, domestic or foreign, that an individual is missing, detained, dead, or alive shall be prima facie evidence of the status and of the dates, circumstances, and places disclosed by the record or report.

(4) In the absence of prima facie evidence of death under subsection (2) or (3) of this section, the fact of death shall be established by clear and convincing evidence, including circumstantial evidence.

(5) An individual whose death is not established under subsection (2), (3), or (4) of this section and who is absent for a continuous period of seven (7) years, during which the individual has not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry, shall be presumed dead. His or her death shall be presumed to have occurred at the end of the period unless there is sufficient evidence for determining that death occurred earlier.

(6) In the absence of evidence disputing the time of death stipulated on a document described in subsection (2) or (3) of this section, a document described in subsection (2) or (3) of this section that stipulates a time of death one hundred twenty (120) hours or more after the time of death of another individual, however the time of death of the other individual is determined, establishes by clear and convincing evidence that the individual survived the other individual by one hundred twenty (120) hours.

The Committee Substitute to **HB 701** is as follows:

HB 701, AN ACT relating to death certificates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 213.076 is amended to read as follows:

(1) A certificate of death or a provisional certificate of death for each death which occurs in the Commonwealth shall be filed with the cabinet or as otherwise directed by the state registrar prior to final disposition, and it shall be registered if it has been completed and filed in accordance with this section. The funeral director, or person acting as such, who first takes custody of a dead body shall be responsible for filing the certificate of death. The funeral director, or person acting as such shall obtain the required personal and statistical particulars from the person best qualified to supply them over the signature and address of the informant. The funeral director, or person acting as such, shall within five (5) days of the death, present the certificate to the attending physician, if any, or to the health officer or coroner as directed by the state registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record as required by this chapter.

(a) It shall be unlawful for an institution to release a dead human body until the funeral director, or person acting as such, has completed and filed with the local registrar or person in charge of the institution, a provisional certificate of death. If death occurs outside an institution, the provisional certificate shall be filed with the local registrar by the funeral director, or person acting as such, prior to final disposition of the dead body. A copy of the provisional certificate of death signed by the person with whom it was filed, shall constitute authority for the possession, transportation, and, except for cremation, final disposition of the body.

(b) All persons having in their possession a completed provisional certificate of death shall file the certificate at not more than weekly intervals with the local registrar.

(c) If the place of death is unknown but the dead body is found in the Commonwealth, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation subject to amendment upon completion of any postmortem examination required to be performed.

(d) If death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, and the place where it is first removed shall be considered the place of death. If a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, but the certificate shall show the actual place of death insofar as can be determined.

(2) If any certificate of death is incomplete or unsatisfactory, the state registrar shall call attention to the defects in the certificate and require the person responsible for the entry to complete or correct it. The state registrar may also require additional information about the circumstances and medical conditions surrounding a death in order to properly code and classify the underlying cause.

(3) The medical certification shall be completed, signed, and returned to the funeral director within five (5) working days after presentation to the physician, dentist, or chiropractor in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by KRS 72.400 to 72.475. In such cases ***and if the cause of death is unknown or pending investigation, the cause of death shall be shown as such on the certificate. A supplemental report providing the medical information omitted from the original certificate shall be filed by the certifier with the State Registrar within five (5) days after receiving results of the inquiry as required by KRS 72.400 to 72.475. The supplemental report shall be made a part of the existing death certificate. Such report shall be considered an amendment, and the death certificate shall be marked "Amended"***[~~, the coroner shall complete and sign the certificate within five (5) days after receiving results of the inquiry as required by KRS 72.400 to 72.475~~]. In the absence of the physician, dentist, or chiropractor, or with such person's approval, the certificate may be completed and signed by his associate physician, dentist, or chiropractor, or the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, or a physician employed by the local health department, if the individual has access to the medical history of the case and death is due to natural causes.

(4) If death occurs more than thirty-six (36) hours after the decedent was last treated or attended by a physician, dentist, or chiropractor, the case shall be referred to the coroner for investigation to determine and certify the cause of death. In the event that a coroner is not available to sign the certificate and there is no duly appointed deputy, the county judge/executive shall appoint a competent person to investigate the death and certify to its cause.

(5) The physician, dentist, chiropractor, or coroner who certifies to the cause of death shall return the certificate to the funeral director, or person acting as such, who, in turn, shall file the certificate directly with the Office of Vital Statistics. Any certified copies of the record requested at the time of filing shall be issued in not more than two (2) working days.

(6) The Office of Vital Statistics shall provide self-addressed, color-coded envelopes for the funeral homes in the Commonwealth of Kentucky.

(7) Three (3) free verification-of-death statements shall be provided to the funeral director by the Office of Vital Statistics for every death in the Commonwealth of Kentucky.

(8) The body of any person whose death occurs in Kentucky shall not be interred, deposited in a vault or tomb, cremated or otherwise disposed of, or removed from or into any registration district, until a provisional certificate of death has been filed with the local registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the Cabinet for Health Services to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the Cabinet for Health Services and the local health department. The Cabinet for Health Services shall identify by regulation those communicable diseases which require blood and body fluid precautions. If a person who has been diagnosed as being infected with a communicable disease for which blood and body fluid precautions are required, dies within a health facility as defined in KRS 216B.015, the facility shall notify any embalmer or funeral director to whom the body will be transported of the need for such precautions. The notice shall be provided by including the statement "Blood and Body Fluid Precautions" on the provisional report-of-death form as prescribed by the Cabinet for Health Services. Lack of this notice shall not relieve any embalmer or funeral director from taking universal blood and body fluid precautions as are recommended by the United States Department of Health and Human Services, Centers for Disease Control for Morticians' Services. No embalmer or funeral director shall charge more for embalming the remains of a person with a communicable disease which requires blood and body fluid precautions than the price for embalming services listed on the price list funeral providers are required to maintain and provide to consumers pursuant to 16 C.F.R. Sec. 453.2 (1988).

(9) A burial-transit permit for the final disposition issued under the law of another state which accompanies a dead body or fetus brought into the Commonwealth shall be the authority for final disposition of the body or fetus in the Commonwealth and may be accepted in lieu of a certificate of death. There shall be noted on the face of the record made for return to the local registrar that the body was shipped to Kentucky for interment and the actual place of death.

(10) Nothing in this section shall be construed to delay, beyond a reasonable time, the interment or other disposition of a body unless the services of the coroner or the health officer are required or the Department for Public Health deems it necessary

for the protection of the public health. If compliance with this section would result in unreasonable delay in the disposition of the body the funeral director, or person acting as such, shall file with the local registrar or deputy registrar prior to interment a provisional certificate of death which shall contain the name, date, and place of death of the deceased, the name of the medical certifier, and an agreement to furnish within ten (10) days a complete and satisfactory certificate of death.

(11) No sexton or other person in charge of any place in which interment or other disposition of dead bodies is made shall inter or allow interment or other disposition of a dead body or fetus unless it is accompanied by a copy of the provisional certificate of death. The sexton, or if there is no sexton, the funeral director, or person acting as such, shall enter on the provisional certificate over his signature, the date, place, and manner of final disposition and file the certificate within five (5) days with the local registrar.

(12) Authorization for disinterment, transportation, and reinterment or other disposition shall be required prior to disinterment of any human remains. The authorization shall be issued by the state registrar upon proper application. The provisions of this subsection shall apply to all manners of disposition except cremation and without regard for the time and place of death. The provisions of KRS 381.765 shall not apply to remains removed for scientific study and the advancement of knowledge.

(13) After a death certificate has been on file for five (5) years, it may not be changed in any manner except upon order of a court. Prior to that time, requests for corrections, amendments, or additions shall be accompanied by prima facie evidence which supports the requested change.

HCR 136, A CONCURRENT RESOLUTION creating the Medical Malpractice Insurance Task Force.

WHEREAS, physicians provide life-maintaining and life-sustaining services to Kentucky citizens, often at greatly reduced cost or at no cost; and

WHEREAS, in order to maintain a medical office, physicians must purchase medical malpractice insurance to protect against often frivolous lawsuits and against the very rare error in medical management of a patient's condition; and

WHEREAS, many factors determine the amount of premium for medical malpractice insurance, including but not limited to geographic location and size of the medical practice, type of medical practice specialty, number of insurers, and number of medical malpractice lawsuits or claims brought against other physicians; and

WHEREAS, medical malpractice insurance premiums are increasing across the country at a rate of over sixty percent, and Kentucky physicians have been told that medical malpractice insurers are withdrawing from the Kentucky market; and

WHEREAS, the rising cost of medical malpractice insurance is jeopardizing the ability of our physicians to maintain functioning offices and to treat patients with the appropriate level of care;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to establish the legislative Medical Malpractice Insurance Task Force to study factors that influence medical malpractice insurance premiums. The task force shall meet at least monthly, beginning not later than August 1, 2002, and shall report its findings and recommendations to the Legislative Research Commission no later than September 1, 2003. The task force shall study the impact of issues relevant to medical malpractice insurance premiums, the overall effect of all factors that influence the cost of medical malpractice insurance, and other issues relevant to a full understanding of medical malpractice insurance and its effect on the cost, access, and quality of health care in the Commonwealth. The study shall consider but not be limited to the following:

(1) The availability of medical malpractice insurance to all physicians in all geographic areas of the Commonwealth;

(2) The factors used by medical malpractice insurers in determining premiums;

(3) Efforts of other states, and particularly states contiguous with Kentucky, to study or reduce the increase in cost of medical malpractice insurance;

(4) The effect of medical malpractice settlements and judgments on medical malpractice insurance premiums;

(5) The marketing techniques of medical malpractice insurers and whether they contribute to a true or false perception of the cost of medical malpractice insurance;

(6) Quality of practice standards for physicians and the extent to which they contribute to increased medical malpractice insurance premiums;

(7) Whether medical malpractice insurers are withdrawing from doing business in Kentucky, and the number of physicians affected by any withdrawal;

(8) Whether the Kentucky Medical Association has taken steps to address the rising cost of medical malpractice insurance;

(9) Whether frivolous lawsuits and excessive insurance company settlements and jury awards contribute to the increase in cost of medical malpractice insurance;

(10) The impact of state regulation, or the lack thereof, on medical malpractice premiums; and

(11) Other factors and issues deemed relevant by the task force.

Section 2. The task force shall make recommendations that seek to control the increase of medical malpractice insurance premiums. These recommendations may include but are not limited to the following:

(1) Whether the state should regulate the medical malpractice insurance industry, with recommendations for the extent of any regulation;

(2) Whether the state should consider a constitutional amendment for tort reform to minimize damage awards or to limit the ready availability of the judicial system as a method to redress medical malpractice concerns;

(3) Whether mediation or arbitration should be required in medical malpractice lawsuits;

(4) Whether the state should finance a medical malpractice insurance program that would be made available to physicians who have little or limited access to medical malpractice insurance;

(5) Whether the state should prohibit any practices used to determine premiums;

(6) Whether tax credits or tax deductions for premiums should be authorized;

(7) Whether rates should be reviewed by the state prior to any increase and whether state approval of rate increases should be required; and

(8) Other issues as deemed relevant by the task force.

Section 3. The Legislative Research Commission shall appoint the following members of the Senate and the House of Representatives to serve as members of the task force and shall appoint co-chairs from the membership:

(1) Four members of the Interim Joint Committee on Health and Welfare, two of whom shall be members of the House and two of whom shall be members of the Senate;

(2) Four members of the Interim Joint Committee on Banking and Insurance, two of whom shall be members of the House and two of whom shall be members of the Senate;

(3) Four members of the Interim Joint Committee on Judiciary, two of whom shall be members of the House and two of whom shall be members of the Senate; and

(4) Two members from the General Assembly at large, one of whom shall be a member of the House and one of whom shall be a member of the Senate.

Section 4. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Substitute to **HCR 136** is as follows:

HCR 136, A CONCURRENT RESOLUTION creating the Medical Malpractice Insurance Task Force.

WHEREAS, health care providers provide life-maintaining and life-sustaining services to Kentucky citizens, often at greatly reduced cost or at no cost; and

WHEREAS, in order to maintain health care offices, health care providers must purchase health care malpractice insurance to protect against often frivolous lawsuits and against the very rare error in health care management of a patient's condition; and

WHEREAS, many factors determine the amount of premium for health care malpractice insurance, including but not limited to geographic location and size of the health care practice, type of health care practice specialty, number of insurers, and number of health care malpractice lawsuits or claims brought against other health care providers; and

WHEREAS, health care malpractice insurance premiums are increasing across the country at a rate of over sixty percent, and Kentucky health care providers have been told that health care malpractice insurers are withdrawing from the Kentucky market; and

WHEREAS, the rising cost of health care malpractice insurance is jeopardizing the ability of our health care providers to maintain functioning offices and to treat patients with the appropriate level of care;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to establish the legislative Health Care Malpractice Insurance Task Force to study factors that influence health care malpractice insurance premiums. The task force shall meet at least monthly, beginning not later than August 1, 2002, and shall report its findings and recommendations to the Legislative Research Commission no later than September 1, 2003. The task force shall study the impact of issues relevant to health care malpractice insurance premiums, the overall effect of all factors that influence the cost of health care malpractice insurance, and other issues relevant to a full understanding of health care malpractice insurance and its effect on the cost, access, and quality of health care in the Commonwealth. The study shall consider but not be limited to the following:

(1) The availability of health care malpractice insurance to all health care providers in all geographic areas of the Commonwealth;

(2) The factors used by health care malpractice insurers in determining premiums;

(3) Efforts of other states, and particularly states contiguous with Kentucky, to study or reduce the increase in cost of health care malpractice insurance;

(4) The effect of health care malpractice settlements and judgments on health care malpractice insurance premiums;

(5) The marketing techniques of health care malpractice insurers and whether they contribute to a true or false perception of the cost of health care malpractice insurance;

(6) Quality of practice standards for health care providers and the extent to which they contribute to increased health care malpractice insurance premiums;

(7) Whether health care malpractice insurers are withdrawing from doing business in Kentucky, and the number of health care providers affected by any withdrawal;

(8) Whether the Kentucky Medical Association and other health care provider associations have taken steps to address the rising cost of health care malpractice insurance;

(9) Whether frivolous lawsuits and excessive insurance company settlements and jury awards contribute to the increase in cost of health care malpractice insurance;

(10) The impact of state regulation, or the lack thereof, on health care malpractice premiums; and

(11) Other factors and issues deemed relevant by the task force.

Section 2. The task force shall make recommendations that seek to control the increase of health care malpractice insurance premiums. These recommendations may include but are not limited to the following:

(1) Whether the state should regulate the health care malpractice insurance industry, with recommendations for the extent of any regulation;

(2) Whether the state should consider a constitutional amendment for tort reform to minimize damage awards or to limit the ready availability of the judicial system as a method to redress health care malpractice concerns;

(3) Whether mediation or arbitration should be required in health care malpractice lawsuits;

(4) Whether the state should finance a health care malpractice insurance program that would be made available to health care providers who have little or limited access to health care malpractice insurance;

(5) Whether the state should prohibit any practices used to determine premiums;

(6) Whether tax credits or tax deductions for premiums should be authorized;

(7) Whether rates should be reviewed by the state prior to any increase and whether state approval of rate increases should be required; and

(8) Other issues as deemed relevant by the task force.

Section 3. The Legislative Research Commission shall appoint the following members of the Senate and the House of Representatives to serve as members of the task force and shall appoint co-chairs from the membership:

(1) Four members of the Interim Joint Committee on Health and Welfare, two of whom shall be members of the House and two of whom shall be members of the Senate;

(2) Four members of the Interim Joint Committee on Banking and Insurance, two of whom shall be members of the House and two of whom shall be members of the Senate;

(3) Four members of the Interim Joint Committee on Judiciary, two of whom shall be members of the House and two of whom shall be members of the Senate; and

(4) Two members from the General Assembly at large, one of whom shall be a member of the House and one of whom shall be a member of the Senate.

Section 4. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Amendment No. 1 Title to **HCR 136** is as follows:

By amending the title to read as follows:

"A CONCURRENT RESOLUTION creating the Health Care Malpractice Insurance Task Force.".

HJR 189, A JOINT RESOLUTION urging the United States Congress to expand Medicare coverage to include oral anti-cancer drugs.

WHEREAS, cancer is a leading cause of morbidity and mortality in the state of Kentucky and throughout the nation; and

WHEREAS, cancer is disproportionately a disease of the elderly, with more than half of all cancer diagnoses occurring in persons age 65 or older, who are thus dependent on the federal Medicare program for provision of cancer care; and

WHEREAS, treatment with anti-cancer drugs is the cornerstone of modern cancer care, and elderly cancer patients must have access to this potentially life-extending drug therapy, but the Medicare program's coverage of drugs is limited to injectable drugs or oral drugs that have an injectable version; and

WHEREAS, the nation's investment in biomedical research has begun to bear fruit with a compelling array of new oral anti-cancer drugs that are less toxic, more effective, and more cost-effective than existing therapies but, because these drugs do not have an injectable equivalent, they are not covered by Medicare; and

WHEREAS, noncoverage of these important new products leaves many Medicare beneficiaries confronting the choice of either substantial out-of-pocket personal costs or selection of more toxic, less effective treatments that are covered by the program; and

WHEREAS, Medicare's failure to cover oral anti-cancer drugs leaves at risk many beneficiaries suffering from blood-related cancers like leukemia, lymphoma, and myeloma, as well as cancers of the breast, lung, and prostate; and

WHEREAS, certain members of the United States Congress have recognized the necessity of Medicare coverage for all oral anti-cancer drugs and have introduced legislation (H.R. 1624; S. 913) in the 107th Congress to achieve that result;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky General Assembly respectfully urges the Congress of the United States to adopt legislation requiring the Medicare program to cover all oral anti-cancer drugs.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Joint Resolution to the President of the United States, each member of the United States Congress, the Secretary of the United States Department of Health and Human Services, and the Administrator of the Centers for Medicare and Medicaid Services.

HJR 205, A JOINT RESOLUTION authorizing and directing a study of adult foster care.

WHEREAS, Kentucky and all states are required under the United States Supreme Court Olmstead v. L.C. decision to provide care for disabled adults in community settings when possible; and

WHEREAS, many disabled adults could benefit from living in communities in a foster home arrangement; and

WHEREAS, under current federal and state law, foster care payments from state government agencies to families caring for a foster child under the age of eighteen are not included as taxable income; and

WHEREAS, the state and federal executive agencies that deal with labor have determined that adults who provide care in family care homes, a foster home arrangement, are in an employer-employee relationship, and thus there appear to be inequities in the treatment of foster care payments made on behalf of children versus adults; and

WHEREAS, at least one regional mental health and mental retardation board has incurred over $100,000 in costs related to the employer-employee relationship of a family home residential provider for disabled adults; and

WHEREAS, federal legislation, the "Fairness for Foster Care Families Act," is pending in the 107th Congress, and this act would expand the exemption from taxes for the payments to foster homes caring for children to foster homes caring for adults;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Legislative Research Commission is hereby directed to establish a task force on the provision of adult foster care. The task force shall have the following responsibilities:

(1) To study the current provision of foster home services, including but not limited to licensure, provider responsibilities, reimbursement rates, and the current and projected need for adult foster care, and to compare the findings to the child foster care system;

(2) To determine the barriers to providing adult foster care, including but not limited to reimbursement rates, tax status of payments for foster care, and issues relating to labor standards; and

(3) To make recommendations to the Legislative Research Commission regarding statutory or regulatory changes necessary to ensure the availability of adult foster care.

Section 2. The President of the Senate shall appoint two (2) members of the Senate and the Speaker of the House shall appoint two (2) members of the House of Representatives to the task force. The President of the Senate shall appoint one (1) legislative member as a co-chair, and the Speaker of the House shall appoint one (1) legislative member as a co-chair of the task force. In addition to the legislative members, the task force shall consist of the following members:

(1) The secretary of the Cabinet for Health Services or designee;

(2) The secretary of the Cabinet for Families and Children or designee;

(3) The secretary of the Labor Cabinet or designee;

(4) The secretary of the Revenue Cabinet or designee;

(5) The commissioner of the Department for Mental Health and Mental Retardation Services or designee;

(6) The commissioner of the Department for Medicaid Services or designee;

(7) The executive director of the Office on Aging Services;

(8) The executive director of the Kentucky Association of Regional Mental Health and Mental Retardation Programs or designee;

(9) The chairperson of the Kentucky Association of Residential Resources or designee;

(10) Two (2) executive directors of a regional mental health and mental retardation board, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives;

(11) Two (2) providers of foster home services, one (1) of whom shall be a provider of foster care for children, recommended by the secretary of the Cabinet for Families and Children and appointed by the President of the Senate, and one (1) of whom shall be a provider of family home care for adults, recommended by the secretary of the Cabinet for Health Services and appointed by the Speaker of the House;

(12) The state director of the Kentucky Chapter of the AARP; and

(13) The chairperson or executive director of the following organizations: Kentucky Consumer Advocacy Network; the Kentucky Chapter of the National Alliance for the Mentally Ill (NAMI); and the ARC of Kentucky.

Section 3. Upon their appointment, members of the task force shall meet no less than three (3) times prior to October 1, 2002. The task force shall submit a final report of its findings and recommendations to the Legislative Research Commission no later than October 1, 2002.

Section 4. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Substitute to **HJR 205** is as follows:

HJR 205, A JOINT RESOLUTION authorizing and directing a study of adult foster care.

WHEREAS, Kentucky and all states are required under the United States Supreme Court Olmstead v. L.C. decision to provide care for disabled adults in community settings when possible; and

WHEREAS, many disabled adults could benefit from living in communities in a foster home arrangement; and

WHEREAS, under current federal and state law, foster care payments from state government agencies to families caring for a foster child under the age of eighteen are not included as taxable income; and

WHEREAS, the state and federal executive agencies that deal with labor have determined that adults who provide care in family care homes, a foster home arrangement, are in an employer-employee relationship, and thus there appear to be inequities in the treatment of foster care payments made on behalf of children versus adults; and

WHEREAS, at least one regional mental health and mental retardation board has incurred over $100,000 in costs related to the employer-employee relationship of a family home residential provider for disabled adults; and

WHEREAS, federal legislation, the "Fairness for Foster Care Families Act," is pending in the 107th Congress, and this act would expand the exemption from taxes for the payments to foster homes caring for children to foster homes caring for adults;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Legislative Research Commission is hereby directed to establish a task force on the provision of adult foster care. The task force shall have the following responsibilities:

(1) To study the current provision of foster home services, including but not limited to licensure, provider responsibilities, reimbursement rates, and the current and projected need for adult foster care, and to compare the findings to the child foster care system;

(2) To determine the barriers to providing adult foster care, including but not limited to reimbursement rates, tax status of payments for foster care, and issues relating to labor standards; and

(3) To make recommendations to the Legislative Research Commission regarding statutory or regulatory changes necessary to ensure the availability of adult foster care.

Section 2. The President of the Senate shall appoint two (2) members of the Senate and the Speaker of the House shall appoint two (2) members of the House of Representatives to the task force. The President of the Senate shall appoint one (1) legislative member as a co-chair, and the Speaker of the House shall appoint one (1) legislative member as a co-chair of the task force. In addition to the legislative members, the task force shall consist of the following members:

(1) The secretary of the Cabinet for Health Services or designee;

(2) The secretary of the Cabinet for Families and Children or designee;

(3) The secretary of the Labor Cabinet or designee;

(4) The secretary of the Revenue Cabinet or designee;

(5) The commissioner of the Department for Mental Health and Mental Retardation Services or designee;

(6) The commissioner of the Department for Medicaid Services or designee;

(7) The executive director of the Office on Aging Services;

(8) The executive director of the Kentucky Association of Regional Mental Health and Mental Retardation Programs or designee;

(9) The chairperson of the Kentucky Association of Residential Resources or designee;

(10) Two (2) executive directors of a regional mental health and mental retardation board, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives;

(11) Two (2) providers of foster home services, one (1) of whom shall be a provider of foster care for children, recommended by the secretary of the Cabinet for Families and Children and appointed by the President of the Senate, and one (1) of whom shall be a provider of family home care for adults, recommended by the secretary of the Cabinet for Health Services and appointed by the Speaker of the House;

(12) The state director of the Kentucky Chapter of the AARP;

(13) The chairperson or executive director of the following organizations: Kentucky Consumer Advocacy Network; the Kentucky Chapter of the National Alliance for the Mentally Ill (NAMI); and the ARC of Kentucky; and

(14) The president of the Kentucky Association of Health Care Facilities.

Section 3. Upon their appointment, members of the task force shall meet no less than three (3) times prior to October 1, 2002. The task force shall submit a final report of its findings and recommendations to the Legislative Research Commission no later than October 1, 2002.

Section 4. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

SCR 76, A CONCURRENT RESOLUTION encouraging the Governor and the Cabinet for Health Services to respond to and fund the needs of Kentuckians living with HIV and AIDS.

WHEREAS, Kentucky citizens face a terrible pandemic in the form of the human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS); and

WHEREAS, throughout the 1990s, progress was made in the treatment of AIDS patients with the development of medications that fought the most serious of symptoms and that delayed the onset of other serious opportunistic infections; and

WHEREAS, new medications help persons with HIV live longer without developing symptoms of full-blown AIDS; and

WHEREAS, the medications for treating HIV and AIDS are extremely expensive, and many people without health insurance are unable to purchase these medications without state assistance; and

WHEREAS, the Kentucky AIDS Drug Assistance Program (KADAP) is not adequately funded and has over 100 persons on a waiting list for drugs that could prolong life or delay the onset of life-threatening symptoms; and

WHEREAS, Kentucky has developed a network of testing and counseling services to help persons obtain testing for HIV, receive counseling related to the results, and receive counseling on the availability of services for persons who test positive for the human immunodeficiency virus; and

WHEREAS, services are not consolidated in a manner that permits easy access or that maximizes efficiency; and

WHEREAS, only three full-service clinics exist in Kentucky that can provide counseling related to housing, transportation, employment, and medications, and that can provide necessary medical services; and

WHEREAS, the three clinics are located in Louisville (University of Louisville), Lexington (University of Kentucky), and Paducah (Heartland CARES), and these clinics are required to provide services to the majority of the AIDS clients in the state but are not reimbursed for many of the services because the patients frequently are uninsured;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The Cabinet for Health Services is encouraged to assist the development of a centers of excellence model of

HIV and AIDS health care delivery that would permit patients to receive all medical care at a center or from family physicians who in turn could access the centers' resources when necessary.

Section 2. The Cabinet for Health Services is encouraged to provide an aggressive outreach program to build a statewide network of HIV and AIDS care providers.

Section 3. The Cabinet for Health Services is encouraged to consolidate HIV and AIDS counseling and testing services. Consolidation would create more efficiency within the cabinet and facilitate increased knowledge and expertise among designated counseling and testing staff.

Section 4. The Governor and the Cabinet for Health Services are encouraged to increase state support for the Kentucky AIDS Drug Assistance Program. Priority should be given to eliminating the waiting list currently facing many Kentuckians who need medications to sustain life.

Section 5. The Governor and the Cabinet for Health Services are encouraged to fully fund the activities of the HIV/AIDS Advisory Council, created by the 2000 General Assembly but not given sufficient funding to carry out its mandated responsibilities. Funding over the 2002-2004 biennial budget should allow for planning, administrative, and staff support and expenses for members to attend meetings.

Section 6. The Clerk is directed to transmit a copy of this resolution to Governor Paul Patton, Capitol, Frankfort, Kentucky 40601; Marcia Morgan, Secretary, Cabinet for Health Services, 275 East Main Street, Frankfort, Kentucky 40621; and Ardis Hoven, M.D., Chair, HIV/AIDS Advisory Council, University of Kentucky Medical Center, Division of Infectious Diseases, Room MN672, Lexington, Kentucky 40536-0298.

The Committee on Local Government reported **HB 596,** with Committee Substitute attached thereto, **HB 618,** with Committee Substitute attached thereto, **HB 661,** with Committee Substitute attached thereto, **HB 680, HB 729, HB 736, HB 739, HB 742,** with Committee Substitute attached thereto, **HCR 192,** with Committee Amendment attached thereto, **SB 141,** with Committee Substitute attached thereto, and **SB 169,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 596, AN ACT relating to compensatory time.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.285 is amended to read as follows:

(1) No employer shall employ any of his employees for a work week longer than forty (40) hours, unless such employee receives compensation for his employment in excess of forty (40) hours in a work week at a rate of not less than one and one-half (1-1/2) times the hourly wage rate at which he is employed. This provision does not apply to employees of retail stores engaged in work connected with selling, purchasing, and distributing merchandise, wares, goods, articles, or commodities or to employees of restaurant, hotel, and motel operations, to employees as defined and exempted from the overtime provision of the Fair Labor Standards Act in Sections 213(b)(1), 213(b)(10) and 213(b)(17) of Title 29, U.S.C., or to employees whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private nonprofit childcaring facilities licensed by the Cabinet for Health Services under KRS 199.640 to 199.670.

(2) Notwithstanding the provisions of subsection (1) of this section or any other chapter of the Kentucky Revised Statutes to the contrary, a county employee, including an employee of a county elected official, of any county, charter county, consolidated local government, or urban-county government who is authorized to work one (1) or more hours in excess of the prescribed hours per work week may be granted compensatory leave on an hour-for-hour basis. A county employee who is not exempt from the provisions of the Federal Fair Labor Standards Act, 29 U.S.C. secs. 201 et seq., may be granted compensatory time in lieu of overtime pay, at the rate of not less than one and one-half (1.5) hours for each hour the employee is authorized to work in excess of forty (40) hours in a work week, provided that the compensatory time is awarded in accordance with the Federal Fair Labor Standards Act, 29 U.S.C. sec. 207(o).

The Committee Substitute to **HB 596** is as follows:

HB 596, AN ACT relating to compensatory time.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.285 is amended to read as follows:

(1) No employer shall employ any of his employees for a work week longer than forty (40) hours, unless such employee receives compensation for his employment in excess of forty (40) hours in a work week at a rate of not less than one and one-half (1-1/2) times the hourly wage rate at which he is employed. This provision does not apply to employees of retail stores engaged in work connected with selling, purchasing, and distributing merchandise, wares, goods, articles, or commodities or to employees of restaurant, hotel, and motel operations, to employees as defined and exempted from the overtime provision of the Fair Labor Standards Act in Sections 213(b)(1), 213(b)(10) and 213(b)(17) of Title 29, U.S.C., or to employees whose function is to provide twenty-four (24) hour residential care on the employer's premises in a

parental role to children who are primarily dependent, neglected, and abused and who are in the care of private nonprofit childcaring facilities licensed by the Cabinet for Health Services under KRS 199.640 to 199.670.

(2) Notwithstanding the provisions of subsection (1) of this section or any other chapter of the KRS to the contrary, upon written request by a county employee, made freely and without coercion, pressure, or suggestion by the employer, and upon a written agreement reached between the employer and the county employee before the performance of the work, a county employee who is authorized to work one (1) or more hours in excess of the prescribed hours per week may be granted compensatory leave on an hour-for-hour basis. Upon the written request by a county employee, made freely and without coercion, pressure, or suggestion by the employer, and upon a written agreement reached between the employer and the county employee before the performance of the work, a county employee who is not exempt from the provisions of the Federal Fair Labor Standards Act, 29 U.S.C. et seq., may be granted compensatory time in lieu of overtime pay, at the rate of not less than one and one half (1.5) hours for each hour the county employee is authorized to work in excess of forty (40) hours in a work week.

(3) (a) Upon the request of the county employee, and as provided in subsection (2) of this section, compensatory time shall be awarded as follows:

1. A county employee who provided work in excess of forty (40) hours in a public safety activity, an emergency response activity, or a seasonal activity as described in 29 C.F.R. sec. 553.24, may accrue not more than four hundred eighty (480) hours of compensatory time; or

2. A county employee engaged in other work in excess of forty (40) hours, may accrue not more than two hundred forty (240) hours of compensatory time.

(b) A county employee who has accrued four hundred eighty (480) hours of compensatory time off pursuant to subparagraph (a)1. of this subsection, or two hundred forty (240) hours of compensatory time off pursuant to subparagraph (a)2. of this subsection, shall for additional overtime hours of work, be paid overtime compensation.

(4) A county employee who has accrued compensatory time off as provided in subsection (2) of this section, and who requested the use of compensatory time shall be permitted by the employer to use the compensatory time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the employer. Mere inconvenience to the employer shall not constitute a sufficient basis for denial of a county employee's request for compensatory time off.

(5) If compensation is paid to a county employee for accrued compensatory time off, the compensation shall be paid at the regular rate earned by the county employee at the time the county employee receives the payment.

(6) Upon a county employee's termination of employment, all unused accrued compensatory time shall be paid at a rate of compensation not less than:

(a) The average regular rate received by the county employee during the last three (3) years of the county employee's employment; or

(b) The final regular rate received by the county employee, whichever is higher.

(7) Compensatory time shall not be used as a means to avoid statutory overtime compensation. A county employee shall have the right to use compensatory time earned and shall not be coerced to accept more compensatory time than an employer can realistically and in good faith expect to be able to grant within a reasonable period upon the county employee making the request for compensatory time off.

(8) Nothing in subsections (2) to (7) of this section shall be construed to supersede any collective bargaining agreement, memorandum of understanding, or any other agreement between the employer and representative of the county employees.

(9) As used in subsections (2) to (7) of this section, "county employee" means an employee of any county, charter county, consolidated local government, or urban-county government, including an employee of a county elected official.

Section 2. KRS 337.990 is amended to read as follows:

The following civil penalties shall be imposed, in accordance with the provisions in KRS 336.985, for violations of the provisions of this chapter:

(1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense. Each failure to pay an employee the wages when due him under KRS 337.020 shall constitute a separate offense.

(2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(3) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense and shall make full payment to the employee by reason of the violation. Each failure to pay an employee the wages as required by KRS 337.055 shall constitute a separate offense.

(4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) and shall also be liable to the affected employee for the amount withheld, plus

interest at the rate of ten percent (10%) per annum.

(5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense and shall make full payment to the employee by reason of the violation.

(6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense and each day that the failure continues shall be deemed a separate offense.

(7) Any employer who violates any provision of KRS 337.275 to 337.325, KRS 337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the commissioner or his authorized representative in the performance of his duties under KRS 337.295, or fails to keep and preserve any records as required under KRS 337.320 and 337.325, or falsifies any record, or refuses to make any record or transcription thereof accessible to the commissioner or his authorized representative shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000). ***A civil penalty of not less than one thousand dollars ($1,000) shall be assessed for any subsequent violation of subsections (2) to (7) of Section 1 of this Act and each day the employer violates subsections (2) to (7) of Section 1 shall constitute a separate offense and penalty.***

(8) Any employer who pays or agrees to pay wages at a rate less than the rate applicable under KRS 337.275 and 337.285, or any wage order issued pursuant thereto shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(9) Any employer who discharges or in any other manner discriminates against any employee because the employee has made any complaint to his employer, to the commissioner, or to his authorized representative that he has not been paid wages in accordance with KRS 337.275 and 337.285 or regulations issued thereunder, or because the employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to KRS 337.385, or because the employee has testified or is about to testify in any such proceeding, shall be deemed in violation of KRS 337.275 to 337.325, KRS 337.345, and KRS 337.385 to 337.405 and shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(10) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(11) Any person who violates KRS 337.530 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(12) Any contractor or subcontractor who violates any wage or work hours provision in any contract under KRS 337.505 to 337.550 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense, and the contractor or subcontractor shall make full restitution to all employees to whom he is legally indebted by reason of said violation. The prime contractor shall be jointly and severally liable with a subcontractor for wages due an employee of the subcontractor. For a flagrant or repeated violation the offending contractor or subcontractor shall be barred from bidding on, or working on, any and all public works contracts, either in his name or in the name of any other company, firm, or other entity in which he might be interested for a period of two (2) years from the date of the last offense. Each day of violation shall constitute a separate offense, and the violation as affects each individual worker shall constitute a separate offense.

(13) Any public authority, public official, or member of a public authority who willfully fails to comply or to require compliance with KRS 337.505 to 337.550 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense. Each day of violation shall constitute a separate offense. If a public authority, public official or member of a public authority willfully or negligently fails to comply with KRS 337.505 to 337.550 and the failure results in damages, injury or loss to any person, the public authority, public official, or member of a public authority may be held liable in a civil action.

(14) A person shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) when that person discharges or in any other manner discriminates against an employee because the employee has:

(a) Made any complaint to his employer, the commissioner, or any other person; or

(b) Instituted, or caused to be instituted, any proceeding under or related to KRS 337.420 to 337.433; or

(c) Testified, or is about to testify, in any such proceedings.

HB 618, AN ACT relating to vehicle emission testing.

WHEREAS, the General Assembly finds that in various areas of the Commonwealth of Kentucky, vehicle emission testing (VET) programs have operated since 1984; and

WHEREAS, the purpose of a VET program is to control certain emissions of air pollutants that are regulated under the Federal Clean Air Act for the protection of the public health; and

WHEREAS, since 1984 the regulation of pollutants has tightened and technological controls on a variety of air emission sources have improved significantly; and

WHEREAS, vehicle manufacturers produce vehicles that operate with fewer polluting emissions and gasoline formulations have changed and will continue to change to reduce harmful components; and

WHEREAS, ninety-eight percent of vehicles required to be tested in Jefferson County pass the VET when administered; and

WHEREAS, federal law allows, in addition to VET programs, various approaches for communities to attain air quality; and

WHEREAS, there are areas with VET programs that have attained federal air quality standards or are soon expected to do so; and

WHEREAS, the changes and advancements that have occurred since 1984 have led to considerable debate about whether VET programs have contributed significantly to the improvement in air quality; and

WHEREAS, VET programs are seen by many citizens as an imposition, unnecessary, and ineffective as a means to achieve the program's purpose; and

WHEREAS, an open, public discussion of VET programs is necessary to determine what, if any, continuing role they should play in meeting Federal Clean Air Act standards in Kentucky communities;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 224.20-710 TO 224.20-765 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "EPA" means the United States Environmental Protection Agency;

(b) "LRC" means the Legislative Research Commission;

(c) "NAAQS" means national ambient air quality standards established under the Federal Clean Air Act and subsequent amendments to the act; and

(d) "VET" means a vehicle emission testing program established under KRS Chapter 77 or Chapter 224.

(2) A county with an air pollution control district that is in attainment with NAAQS shall direct the air pollution control district board to develop a plan to remain in attainment of NAAQS without the use of a VET program. Upon completion of the plan, the board shall make the necessary applications to the EPA to eliminate the VET program by October 31, 2003. The board shall notify the secretary of its applications to the EPA and the secretary, or the secretary's designee, shall subsequently report the date of the board's application to the LRC.

(3) For a county with an air pollution control district that is not in attainment with NAAQS, a nine (9) member VET program review group shall be established by the Legislative Research Commission to develop a strategy to identify alternative methods of bringing the county into attainment without the use of a VET program. Members appointed to a VET program review group shall serve without compensation for their services to the group. A majority of the membership of a VET program review group shall constitute a quorum to conduct business.

(4) Members of a VET program review group shall be appointed as follows:

(a) Two (2) members shall be appointed by the President of the Kentucky Senate and the members shall be citizens that reside within the county in which the VET program is located;

(b) Two (2) members shall be appointed by the Speaker of the Kentucky House of Representatives and the members shall be citizens that reside within the county in which the VET program is located; and

(c) Five (5) members shall be appointed by the LRC:

1. One (1) member shall be recommended by the county judge/executive of the county in which the VET program is located, or if the VET program is located in a county which has merged with a city of the first class, the recommendation shall be made by the mayor of the consolidated local government;

2. One (1) member shall be recommended by the mayor of the largest city within the county in which the VET program is located;

3. One (1) member shall be recommended by the Governor and the member shall be a citizen who resides within the county in which the VET program is located;

4. One (1) member shall be a designee of the cabinet recommended by the secretary; and

5. One (1) member shall be the director, or the director's designee, of the county air pollution control district.

(5) A VET program review group shall hold meetings on a monthly basis that shall be open to the public and subject to the provisions governing open meetings under KRS 61.805 to 61.850. A VET program review group shall maintain a written record of all meetings and actions taken.

(6) A VET program review group shall:

(a) Submit monthly reports to the LRC regarding the group's progress; and

(b) Submit a final report to the LRC not later than September 1, 2003, which shall include recommendations on the best method of bringing that county into attainment with NAAQS without the use of a VET program by October 31, 2003.

(7) A VET program review group shall continue to exist and function after submitting its final report to the LRC until such time as a VET program is no longer required in that county. At the time a VET program is eliminated in a county, the VET program review group shall be immediately dissolved.

The Committee Substitute to **HB 618** is as follows:

HB 618, AN ACT relating to vehicle emission testing.

WHEREAS, the General Assembly finds that in various areas of the Commonwealth of Kentucky, vehicle emission testing (VET) programs have operated since 1984; and

WHEREAS, the purpose of a VET program is to control certain emissions of air pollutants that are regulated under the Federal Clean Air Act for the protection of the public health; and

WHEREAS, since 1984 the regulation of pollutants has tightened and technological controls on a variety of air emission sources have improved significantly; and

WHEREAS, vehicle manufacturers produce vehicles that operate with fewer polluting emissions and gasoline formulations have changed and will continue to change to reduce harmful components; and

WHEREAS, ninety-eight percent of vehicles required to be tested in Jefferson County pass the VET when administered; and

WHEREAS, federal law allows, in addition to VET programs, various approaches for communities to attain air quality; and

WHEREAS, there are areas with VET programs that have attained federal air quality standards or are soon expected to do so; and

WHEREAS, the changes and advancements that have occurred since 1984 have led to considerable debate about whether VET programs have contributed significantly to the improvement in air quality; and

WHEREAS, VET programs are seen by many citizens as an imposition, unnecessary, and ineffective as a means to achieve the program's purpose; and

WHEREAS, an open, public discussion of VET programs is necessary to determine what, if any, continuing role they should play in meeting Federal Clean Air Act standards in Kentucky communities;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 224.20-710 TO 224.20-765 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "EPA" means the United States Environmental Protection Agency;

(b) "LRC" means the Legislative Research Commission;

(c) "NAAQS" means national ambient air quality standards established under the Federal Clean Air Act and subsequent amendments to the act; and

(d) "VET" means a vehicle emission testing program established under KRS Chapter 77 or Chapter 224.

(2) A county with an air pollution control district that has established a vehicle emissions control program as a means of meeting the NAAQS shall direct the air pollution control district board to revise the vehicle emissions control program. The program shall be revised to test only vehicles six (6) years old and older and require vehicles to be tested on a biennial schedule. The county shall direct that any fee increases for the program shall be limited to the annual rate of inflation as reflected in the consumer price index.

(3) The county shall direct the board to study additional modifications to the vehicle emissions control program or its elimination. The board shall report its finding to the county, or its successor, and the Legislative Research Commission by January 1, 2004.

(4) This Act takes effect November 1, 2003.

HB 661, AN ACT relating to county coroners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.5275 is amended to read as follows:

(1) The General Assembly of the Commonwealth of Kentucky hereby finds and determines that county judges/executive, county clerks, jailers who operate a full service jail, *coroners,* and sheriffs in all counties are officers whose duties or

jurisdictions are coextensive with that of the Commonwealth within the meaning of Section 246 of the Constitution of Kentucky.

(2) Effective on the first Monday in January of 1999, the maximum salary of county judges/executive, county clerks, jailers who operate a full service jail, ***coroners,*** and sheriffs shall be fixed by the Department for Local Government according to a salary schedule in accordance with Section 246 of the Kentucky Constitution. The salary schedule provides that these officials, as officers whose jurisdiction or duties are coextensive with the Commonwealth, shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum as adjusted for any increase or decrease in the consumer price index and as described in subsection (4) of this section.

(3) The salary schedule for county judges/executive, county clerks, jailers who operate a full service jail, ***coroners,*** and sheriffs in all counties provides for nine (9) levels of salary based upon the population of the county in the year prior to the election of county officials as determined by the United States Department of Commerce, Bureau of the Census's annual estimates. To implement the salary schedule, the Department for Local Government shall, by November 1 of each year preceding the election of county officials, certify for each county the population group applicable to each county based on the most recent estimates of the United States Department of Commerce, Bureau of the Census. For the purposes of this section, the salary schedule for county judges/executive, county clerks, jailers who operate a full service jail, ***coroners,*** and sheriffs shall remain as determined by the Department for Local Government pursuant to this section, regardless of changes in the population estimates or the actual census count that may occur during the term for which the official has been elected or appointed. The salary schedule provides four (4) steps for yearly increments within each population group. County officers named in this section shall be paid according to the first step within their population group for the first year or portion thereof they serve in office. Thereafter, each officer, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. Prior to assuming office on the first Monday in January, 1999, or thereafter, any person assuming any of the offices for which the salary is determined by this section must certify to the commissioner of the Department for Local Government the total number of years, not to exceed four (4) years, that the person has previously served in the office. The department shall place the officer in the proper step based upon a formula of one (1) incremental step per full calendar year of service:

SALARY SCHEDULE

County Population by Group	Steps and Salary for Affected Officers			
Group I	Step 1	Step 2	Step 3	Step 4
0-4,999	$ 6,600	$ 6,800	$ 7,000	$ 7,200
Group II				
5,000-9,999	7,200	7,400	7,600	7,800
Group III				
10,000-19,999	7,800	8,000	8,200	8,400
Group IV				
20,000-29,999	8,100	8,400	8,700	9,000
Group V				
30,000-44,999	8,700	9,000	9,300	9,600
Group VI				
45,000-59,999	9,000	9,400	9,800	10,200
Group VII				
60,000-89,999	9,600	10,000	10,400	10,800
Group VIII				
90,000-499,999	9,900	10,400	10,900	11,400
Group IX				
500,000 and up	10,500	11,000	11,500	12,000

(4) Upon publication of the annual consumer price index by the United States Department of Commerce, the Department for Local Government shall fix the salary of the county judge/executive, county clerk, jailer who operates a full service jail, ***coroner,*** and sheriff at an annual rate of salary to which the county official is entitled pursuant to the increase in the Consumer Price Index and the salary schedule contained in this section. This salary determination shall be retroactive to the preceding January 1.

(5) Notwithstanding any provision contained in this section, no county official holding office on July 15, 1998, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on July 15, 1998.

(6) In addition to the step increases based on service in office, each officer shall be paid an annual incentive of one hundred dollars ($100) per calendar year for each forty (40) hour training unit successfully completed, based on continuing service

in that office and, except as provided in this subsection, completion of at least forty (40) hours of approved training in each subsequent calendar year. If an officer fails, without good cause as determined by the commissioner of the Department for Local Government, to obtain the minimum amount of approved training in any year, the officer shall lose all training incentives previously accumulated. Each training unit shall be approved and certified by the Department for Local Government. No officer shall receive more than one (1) training unit per calendar year nor more than four (4) incentive payments per calendar year. Each officer shall be allowed to carry forward up to forty (40) hours of training credit into the following calendar year for the purpose of satisfying the minimum amount of training for that year. Each annual incentive payment shall be adjusted by the Department for Local Government on an annual basis for any increase or decrease in the consumer price index in the same manner as salaries are adjusted as described in subsection (4) of this section. The Department for Local Government shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish guidelines for the approval and certification of training units.

(7) Except in counties that contain an urban-county form of government, justices of the peace who serve on fiscal courts and county commissioners shall also be eligible for the training incentive payments in accordance with subsection (6) of this section.

Section 2. KRS 64.185 is amended to read as follows:

(1) Coroners shall receive ***an annual salary pursuant to the salary schedule in Section 1 of this Act. No coroner holding office in the Commonwealth on or after January 6, 2003, shall receive an annual salary of less than the total annual compensation received by that official during calendar year 2002.***

[~~out of the county or urban county treasury, whichever is appropriate, the monthly compensation the fiscal court of each county shall fix, subject to the following minimums:~~

	~~County Population~~	~~Monthly Minimum Compensation~~
~~(a)~~	~~10,000 or less~~	~~$ 200~~
~~(b)~~	~~10,001 to 20,000~~	~~300~~
~~(c)~~	~~20,001 to 40,000~~	~~350~~
~~(d)~~	~~40,001 to 60,000~~	~~400~~
~~(e)~~	~~60,001 to 100,000~~	~~450~~
~~(f)~~	~~100,001 to 150,000~~	~~800~~
~~(g)~~	~~150,001 or more~~	~~1,000~~

~~Coroners who hold a current certificate of continuing education, issued jointly by the Department of Criminal Justice Training, Justice Cabinet, and the Division of Kentucky State Medical Examiners Office, Justice Cabinet, shall be paid the following minimum monthly compensation set forth in this subsection in recognition of the training:~~

	~~County Population~~	~~Monthly Minimum Compensation~~
~~(a)~~	~~10,000 or less~~	~~$ 400~~
~~(b)~~	~~10,001 to 20,000~~	~~500~~
~~(c)~~	~~20,001 to 40,000~~	~~650~~
~~(d)~~	~~40,001 to 60,000~~	~~750~~
~~(e)~~	~~60,001 to 100,000~~	~~850~~
~~(f)~~	~~100,001 to 150,000~~	~~1,100~~
~~(g)~~	~~150,001 or more~~	~~1,300~~]

(2) Deputy coroners, who hold a current certificate of continuing education, ***issued jointly by the Department of Criminal Justice Training, Justice Cabinet, and the Division of Kentucky State Medical Examiners Office, Justice Cabinet,***[~~as described in subsection (1) of this section,~~] shall receive out of the county or urban-county treasury, whichever is appropriate, the monthly compensation the fiscal court of each county shall fix, subject to the following minimums:

	County Population	Monthly Minimum Compensation
(a)	10,000 or less	$200
(b)	10,001 to 20,000	250
(c)	20,001 to 40,000	275
(d)	40,001 to 60,000	300
(e)	60,001 to 100,000	400
(f)	100,001 to 150,000	900

(g) 150,001 or more 1,100

(3) The fiscal court of any county, urban-county, or charter county government, may compensate coroners and deputy coroners an additional amount of up to three hundred dollars ($300) per month as an expense allowance.

(4) ***Coroners shall hold a current certificate of continuing education, issued jointly by the Department of Criminal Justice Training, Justice Cabinet, and the Division of Kentucky State Medical Examiners Office, Justice Cabinet.*** The initial course of continuing education required ***by***[~~under subsection (1) of~~] this ***subsection***[~~section~~] shall consist of a basic training course prescribed by the Justice Cabinet. Annually thereafter the coroner shall attend and successfully complete at least eighteen (18) hours of approved training in order to be compensated in accordance with ***Section 1 of this Act***[~~subsection (1) of this section~~].

(5) If a deputy coroner assumes the office of coroner after receiving the training stipulated in this section, the deputy coroner shall be compensated in accordance with the compensation schedule set forth in ***Section 1 of this Act***[~~subsection (1) of this section~~].

(6) The number of deputy coroners in a county shall not exceed one (1) for each twenty-five thousand (25,000) inhabitants, or fraction thereof, according to the most recent federal census, but every coroner may, subject to fiscal court approval, appoint two (2) deputy coroners, regardless of population.

The Committee Substitute to **HB 661** is as follows:

HB 661, AN ACT relating to county coroners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.5275 is amended to read as follows:

(1) The General Assembly of the Commonwealth of Kentucky hereby finds and determines that county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs in all counties are officers whose duties or jurisdictions are coextensive with that of the Commonwealth within the meaning of Section 246 of the Constitution of Kentucky.

(2) Effective on the first Monday in January of 1999, the maximum salary of county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs shall be fixed by the Department for Local Government according to a salary schedule in accordance with Section 246 of the Kentucky Constitution. The salary schedule provides that these officials, as officers whose jurisdiction or duties are coextensive with the Commonwealth, shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum as adjusted for any increase or decrease in the consumer price index and as described in subsection (4) of this section.

(3) The salary schedule for county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs in all counties provides for nine (9) levels of salary based upon the population of the county in the year prior to the election of county officials as determined by the United States Department of Commerce, Bureau of the Census's annual estimates. To implement the salary schedule, the Department for Local Government shall, by November 1 of each year preceding the election of county officials, certify for each county the population group applicable to each county based on the most recent estimates of the United States Department of Commerce, Bureau of the Census. For the purposes of this section, the salary schedule for county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs shall remain as determined by the Department for Local Government pursuant to this section, regardless of changes in the population estimates or the actual census count that may occur during the term for which the official has been elected or appointed. The salary schedule provides four (4) steps for yearly increments within each population group. County officers named in this section shall be paid according to the first step within their population group for the first year or portion thereof they serve in office. Thereafter, each officer, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. Prior to assuming office on the first Monday in January, 1999, or thereafter, any person assuming any of the offices for which the salary is determined by this section must certify to the commissioner of the Department for Local Government the total number of years, not to exceed four (4) years, that the person has previously served in the office. The department shall place the officer in the proper step based upon a formula of one (1) incremental step per full calendar year of service:

SALARY SCHEDULE

County Population by Group	Steps and Salary for Affected Officers			
Group I	Step 1	Step 2	Step 3	Step 4
0-4,999	$ 6,600	$ 6,800	$ 7,000	$ 7,200
Group II				
5,000-9,999	7,200	7,400	7,600	7,800
Group III				
10,000-19,999	7,800	8,000	8,200	8,400
Group IV				

20,000-29,999	8,100	8,400	8,700	9,000
Group V				
30,000-44,999	8,700	9,000	9,300	9,600
Group VI				
45,000-59,999	9,000	9,400	9,800	10,200
Group VII				
60,000-89,999	9,600	10,000	10,400	10,800
Group VIII				
90,000-499,999	9,900	10,400	10,900	11,400
Group IX				
500,000 and up	10,500	11,000	11,500	12,000

(4) Upon publication of the annual consumer price index by the United States Department of Commerce, the Department for Local Government shall fix the salary of the county judge/executive, county clerk, jailer who operates a full service jail, and sheriff at an annual rate of salary to which the county official is entitled pursuant to the increase in the Consumer Price Index and the salary schedule contained in this section. This salary determination shall be retroactive to the preceding January 1.

(5) Notwithstanding any provision contained in this section, no county official holding office on July 15, 1998, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on July 15, 1998.

(6) In addition to the step increases based on service in office, each officer shall be paid an annual incentive of one hundred dollars ($100) per calendar year for each forty (40) hour training unit successfully completed, based on continuing service in that office and, except as provided in this subsection, completion of at least forty (40) hours of approved training in each subsequent calendar year. If an officer fails, without good cause as determined by the commissioner of the Department for Local Government, to obtain the minimum amount of approved training in any year, the officer shall lose all training incentives previously accumulated. Each training unit shall be approved and certified by the Department for Local Government. No officer shall receive more than one (1) training unit per calendar year nor more than four (4) incentive payments per calendar year. Each officer shall be allowed to carry forward up to forty (40) hours of training credit into the following calendar year for the purpose of satisfying the minimum amount of training for that year. Each annual incentive payment shall be adjusted by the Department for Local Government on an annual basis for any increase or decrease in the consumer price index in the same manner as salaries are adjusted as described in subsection (4) of this section. The Department for Local Government shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish guidelines for the approval and certification of training units.

(7) Except in counties that contain an urban-county form of government, justices of the peace who serve on fiscal courts***,***~~[and]~~ county commissioners***, and county coroners*** shall also be eligible for the training incentive payments in accordance with subsection (6) of this section.

HB 680, AN ACT relating to death benefits for police and firefighters in cities of the second and third class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.570 is amended to read as follows:

(1) When an active or retired member of the police or fire department, in cities of the third class, dies under the conditions set out in paragraph (c) of subsection (1) of KRS 95.550, the board of trustees of the pension fund may pay from the fund to the widow, widower or family a sum of not more than ***ten thousand dollars ($10,000)***~~[two hundred dollars ($200)]~~, for ***a death benefit***~~[funeral expenses]~~.

(2) The board of trustees of a pension fund may purchase group life insurance to assist in the provision of funds for the funding of this death benefit.

Section 2. KRS 95.865 is amended to read as follows:

(1) Upon death of a member, occurring while in active service, if no widow's annuity or children's annuities are payable, the designated beneficiary of the member or his estate shall be entitled to a death benefit equal to the total contributions made by the member, including those employee contributions picked up by the employer pursuant to KRS 65.155, without interest, or three hundred dollars ($300), whichever is greater.

(2) Upon death of a retired member, if no widow's annuity or children's annuities shall be due or payable, a death benefit shall be paid to the designated beneficiary or estate of the member, equal to the excess, if any, of the total contributions made by the member to this fund to the date of retirement, including those employee contributions picked up by the employer pursuant to KRS 65.155, without interest, over the total annuity payments received by the member. The minimum payment in such case shall be three hundred dollars ($300). If a widow's annuity or children's annuities are payable after the death of the retired member, the amount of such death benefit, if any, shall be determined upon termination of annuity payments

to all survivors of the member, whether such termination occurs by death, remarriage or other cause.

(3) When an active or retired member of the police or fire department, in cities of the second class, is killed or dies as the result of an injury received in the performance of duty, or dies of any disease contracted by reason of his occupation, or dies while in the service from any cause as a result of his service in the department, or dies in the service or while on the retired list from any cause after fifteen (15) consecutive years of service in the department, and leaves a widow, widower, or a child under eighteen (18) years of age, the board of trustees of the pension fund may pay from the fund to the widow, widower, or family a sum of not more than ten thousand dollars ($10,000) for a death benefit. The board of trustees of a pension fund may purchase group life insurance to assist in the provision of funds for the funding of this death benefit.

HB 729, AN ACT relating to the salaries of nonelected city officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 83A.070 is amended to read as follows:

(1) The legislative body of each city shall by ordinance fix the compensation of every elected city officer not later than the first Monday in May in the year the officer is elected. An elected officer's compensation shall not be changed after his election or during his term of office.

(2)[~~The legislative body of each city shall fix the compensation of each appointed city officer by ordinance and may change it by ordinance.~~

~~(3)~~] The legislative body of each city shall fix the compensation of city employees ***and nonelected city officers*** in accordance with a personnel and pay classification plan which shall be adopted by ordinance.

(3)[~~(4)~~] All fees and commissions authorized by law shall be paid into the city treasury for the benefit of the city and shall not be retained by any officer or employee.

(4)[~~(5)~~] The legislative body of each city may, by ordinance, establish the compensation for any elective[~~ or appointive~~] city office on a salaried or per diem basis.

Section 2. KRS 83A.080 is amended to read as follows:

(1) All nonelected city offices shall be created by ordinance which shall specify:

- (a) Title of office;
- (b) Powers and duties of office;
- (c) Oath of office; ***and***
- (d) Bond, if required[~~; and~~
- ~~(e) Compensation which may be specifically established or set by reference to another ordinance in which the compensation is specifically established~~].

(2) A city may create nonelected offices other than those referred to in this subsection. For purposes of the requirements of this section, the following shall be considered nonelected offices:

- (a) City clerk;
- (b) City manager;
- (c) City administrator;
- (d) Chief of police; and
- (e) Fire chief, other than a volunteer fire chief.

(3) All nonelected city officers shall be appointed by the executive authority of the city and, except in cities of the first class, all these appointments shall be with approval of the city legislative body if separate from the executive authority. The officers may be removed by the executive authority at will unless otherwise provided by statute or ordinance. Upon removal of a nonelected officer at will, the executive authority shall give the officer a written statement setting forth the reason or reasons for the removal. However, this requirement shall not be construed as limiting in any way the at-will dismissal power of the executive authority.

(4) Each appointed and elected city office existing upon adoption of this chapter shall continue until abolished by ordinance, except that the offices of mayor and legislative body members may not be abolished. No abolition of any elected office shall take effect until expiration of the term of the current holder of the office. No ordinance abolishing any elected office shall be enacted later than two hundred forty (240) days preceding the regular election for that office, except in the event of a vacancy in the office.

(5) No city may create any elected office. Existing elected offices may be continued under provision of subsection (4) of this section, but no existing elected office may be changed.

HB 736, AN ACT relating to purchasing by local public agencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.385 is amended to read as follows:

The local public agency may use small purchase procedures for any contract for which a determination is made that the aggregate amount of the contract does not exceed ***twenty***[~~ten~~] thousand dollars ***($20,000)***[~~($10,000)~~] if small purchase procedures are in writing and available to the public.

HB 739, AN ACT relating to joint sewer agencies and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 76.231 is amended to read as follows:

(1) As an alternative to establishing a metropolitan sewer district pursuant to KRS 76.010, any city of the second class together with the county in which it is located, may jointly establish a sewer agency for the purpose of providing sewer and drainage facilities within the city and the county.

(2) A joint sewer agency shall be established upon the enactment of identical ordinances establishing and setting out the powers of the agency by both the legislative body of the city and the fiscal court of the county.

(3) All the powers granted a metropolitan sewer district in cities of the first class by KRS 76.010 to 76.279 may be granted by ordinance to the sewer agency except that these powers may be restricted or qualified in order to conform to the local needs of the county and the city.

(4) The legislative body of the city and the fiscal court of the county shall establish a schedule of rates, rentals and charges to be collected from all real property served by the facilities of the sewer agency in the manner provided by KRS 76.090. ***If the city, county, and sewer agency find that local needs warrant, uniformity of rates for all residential property shall not be required for a period of no more than ten (10) years from the date the sewer agency is established under subsection (2) of this section.*** If for whatever reason the city and county cannot agree to amendments to a rate schedule, the current schedule shall remain in effect until such time as an agreement can be reached.

(5) For purposes of establishing a schedule of rates, rentals, and charges to be collected, the legislative body of the city and the fiscal court of the county may prescribe by joint ordinance for the creation of a rate adjustment board that shall be comprised of the members of both legislative bodies, sitting as a single body. Upon the creation of a rate adjustment board, a simple majority of the combined membership of the rate adjustment board shall be required to establish rates, rentals, and charges to be collected.

(6) The joint sewer agency shall be administered as a separate legal entity or by a jointly appointed administrator or joint board as set out in the establishing ordinances.

(7) The joint sewer agency may be dissolved only by a joint action of the legislative body of the city and the fiscal court of the county. The establishing ordinance may be amended in the same manner as originally enacted.

(8) The legislative body of any city of the third to sixth class may by ordinance elect to be within the jurisdiction of a joint sewer agency established pursuant to this section.

Section 2. Whereas joint sewer agencies are interested in distributing debt service in a fair manner, and whereas the constituent sewer providers in those joint sewer agencies have differing levels of debt that need to be distributed via appropriate rates to their customers in the most expedient manner, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HB 742, AN ACT relating to local emergency management directors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 39B.020 is amended to read as follows:

(1) The county judge/executive***, with the concurrence of a majority of the fiscal court,*** of each county***;***[~~,~~] the mayor***, with the concurrence of a majority of the legislative body of the city or urban-county government,*** of each city or urban-county government***;***[~~,~~] or the chief executive of other local government***, with the concurrence of a majority of the legislative body of that local government***, within thirty (30) days of assuming office following their election, shall appoint a local emergency management director who meets all qualifications criteria pursuant to KRS Chapters 39A to 39F, and shall immediately notify the director of the Division of Emergency Management of the appointment.

(2) In lieu of appointing a separate local emergency management director for each jurisdiction, the county judge/executive of a county and mayors of cities or urban-county governments, or the chief executive of other local government***, with the concurrence of a majority of each separate legislative body for that local government making a joint appointment,*** located within the territorial boundaries of the same county may jointly appoint a single local emergency management director who meets all the qualifications criteria pursuant to KRS Chapters 39A to 39F. It is the policy of the Division of Emergency Management to encourage and support the joint appointment of a single local director in each territorial county

of the Commonwealth. The duly appointed local emergency management director shall direct, control, and manage all the affairs of the local emergency management agency and comprehensive emergency management program of the jurisdictions wherein appointed.

(3) A local emergency management director appointed under the provisions of subsections (1) or (2) of this section shall serve at the pleasure of the appointing authority, but shall serve not longer than four (4) years without reappointment and, in addition to any local requirements, shall meet the qualification requirements listed in this subsection:

(a) The local director shall be a high school graduate with an additional three (3) years of experience in business administration, government planning, industrial, or commercial planning, public safety, management of emergency services, or related community or governmental service. Management level experience may not be substituted for high school education. Education at an accredited college or university may be substituted for experience on a year-for-year basis.

(b) The local director shall be a resident of the Commonwealth of Kentucky and the county served.

(c) The local director shall ***not be an officer of any political party, nor shall he or she*** hold ***any***~~[no]~~ partisan elective office, nor file for, seek, or campaign for any partisan elective office while holding the position of local emergency management director.

(d) The local director shall be routinely available to respond to emergency scenes, command posts, or emergency operations centers to coordinate emergency response of all local public and private agencies and organizations; to perform necessary administrative, planning, and organizational duties; to complete and submit required reports, records, emergency operations plans, and documents; to attend required training; and attend meetings convened by the appointing authority or the area manager of the division.

1. If the local director is also a full-time or part-time employee of the federal or state government, the local director shall have written authorization from the appropriate appointing authority to hold the position of local emergency management director and to fully comply with the provisions of paragraph (d) of this subsection. A copy of the written authorization shall be submitted to the division at the time of appointment.

2. If the local director is also a full-time or part-time employee of a city, county, urban-county government or charter county government in another capacity, that government shall enact an official city or county order or ordinance specifying that the individual appointed as local emergency management director shall fully comply with the provisions of paragraph (d) of this subsection. The order or ordinance shall also specify that the individual, when performing the duties of local emergency management director, shall relinquish all authorities and responsibilities associated with any other governmental employment and shall indicate another person, by name or position, to assume those authorities and responsibilities until such time as the local director shall cease to function as local emergency management director. A copy of the enacted order or ordinance shall be submitted to the division at the time of appointment. The city, county, or urban-county government, or charter county government shall not seek reimbursement from the division for the local director's salary for any time spent in another capacity.

3. If the local director is also a full-time or part-time employee in the private sector, the local director shall have a letter from each employer stating that the local director shall, without penalty or exception, be permitted to fully comply with the provisions of paragraph (d) of this subsection. A copy of the letter from each employer shall be submitted to the division at the time of appointment.

4. If the local director is self-employed, the local director shall certify at the time of appointment, by letter to the director of the division, that the local director's schedule shall permit full compliance with the provisions of paragraph (d) of this subsection.

(e) Preference shall be given to honorably discharged veterans of the United States Armed Forces or the United States Coast Guard who have had as their primary specialty or received more than basic training in, nuclear, biologic or chemical defense, or counter-terrorist operations.

(4) A local director whose salary has been reimbursed by the division prior to January 1, 1994, shall not be subject to the provisions of subsection (3)(a) of this section, so long as remaining continuously in that position for the appointing jurisdiction.

(5) A local director whose salary is reimbursed in part or in full by the Division of Emergency Management pursuant to KRS 39C.010 and 39C.020, shall also meet any other requirements of KRS Chapters 39A to 39F and any requirements which may be imposed by the Federal Emergency Management Agency, or its successor.

The Committee Substitute to **HB 742** is as follows:

HB 742, AN ACT relating to local emergency management directors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 39B.020 is amended to read as follows:

(1) The county judge/executive***, with the concurrence of a majority of the fiscal court,*** of each county***;***~~[,]~~ the mayor***, with the concurrence of a majority of the legislative body of the city or urban-county government,*** of each city or urban-county government***;***~~[,]~~ or the chief executive of other local government, within thirty (30) days of assuming office following their election, shall appoint a local emergency management director who meets all qualifications criteria pursuant to KRS Chapters 39A to 39F, and shall immediately notify the director of the Division of Emergency Management of the appointment.

(2) In lieu of appointing a separate local emergency management director for each jurisdiction, the county judge/executive of a county and mayors of cities or urban-county governments, or the chief executive of other local government located within the territorial boundaries of the same county may jointly appoint a single local emergency management director who meets all the qualifications criteria pursuant to KRS Chapters 39A to 39F. It is the policy of the Division of Emergency Management to encourage and support the joint appointment of a single local director in each territorial county of the Commonwealth. The duly appointed local emergency management director shall direct, control, and manage all the affairs of the local emergency management agency and comprehensive emergency management program of the jurisdictions wherein appointed.

(3) A local emergency management director appointed under the provisions of subsections (1) or (2) of this section shall serve at the pleasure of the appointing authority, but shall serve not longer than four (4) years without reappointment and, in addition to any local requirements, shall meet the qualification requirements listed in this subsection:

(a) The local director shall be a high school graduate with an additional three (3) years of experience in business administration, government planning, industrial, or commercial planning, public safety, management of emergency services, or related community or governmental service. Management level experience may not be substituted for high school education. Education at an accredited college or university may be substituted for experience on a year-for-year basis.

(b) The local director shall be a resident of the Commonwealth of Kentucky and the county served.

(c) The local director shall ***not be an officer of any political party, nor shall he or she*** hold ***any***~~[no]~~ partisan elective office, nor file for, seek, or campaign for any partisan elective office while holding the position of local emergency management director.

(d) The local director shall be routinely available to respond to emergency scenes, command posts, or emergency operations centers to coordinate emergency response of all local public and private agencies and organizations; to perform necessary administrative, planning, and organizational duties; to complete and submit required reports, records, emergency operations plans, and documents; to attend required training; and attend meetings convened by the appointing authority or the area manager of the division.

1. If the local director is also a full-time or part-time employee of the federal or state government, the local director shall have written authorization from the appropriate appointing authority to hold the position of local emergency management director and to fully comply with the provisions of paragraph (d) of this subsection. A copy of the written authorization shall be submitted to the division at the time of appointment.

2. If the local director is also a full-time or part-time employee of a city, county, urban-county government or charter county government in another capacity, that government shall enact an official city or county order or ordinance specifying that the individual appointed as local emergency management director shall fully comply with the provisions of paragraph (d) of this subsection. The order or ordinance shall also specify that the individual, when performing the duties of local emergency management director, shall relinquish all authorities and responsibilities associated with any other governmental employment and shall indicate another person, by name or position, to assume those authorities and responsibilities until such time as the local director shall cease to function as local emergency management director. A copy of the enacted order or ordinance shall be submitted to the division at the time of appointment. The city, county, or urban-county government, or charter county government shall not seek reimbursement from the division for the local director's salary for any time spent in another capacity.

3. If the local director is also a full-time or part-time employee in the private sector, the local director shall have a letter from each employer stating that the local director shall, without penalty or exception, be permitted to fully comply with the provisions of paragraph (d) of this subsection. A copy of the letter from each employer shall be submitted to the division at the time of appointment.

4. If the local director is self-employed, the local director shall certify at the time of appointment, by letter to the director of the division, that the local director's schedule shall permit full compliance with the provisions of paragraph (d) of this subsection.

(e) Preference shall be given to honorably discharged veterans of the United States Armed Forces or the United States Coast Guard who have had as their primary specialty or received more than basic training in, nuclear, biologic, chemical defense, or counter-terrorist operations. Preference shall also be given to individuals having prior experience in emergency management, fire services, emergency medical services, law enforcement, those individuals having experience with similar local, state, or federal emergency response organizations or experience with emergency preparedness and security in private industry, with an emphasis on those individuals who have had leadership positions.

(4) A local director whose salary has been reimbursed by the division prior to January 1, 1994, shall not be subject to the provisions of subsection (3)(a) of this section, so long as remaining continuously in that position for the appointing jurisdiction.

(5) A local director whose salary is reimbursed in part or in full by the Division of Emergency Management pursuant to KRS 39C.010 and 39C.020, shall also meet any other requirements of KRS Chapters 39A to 39F*, with particular emphasis on the training requirements specified in KRS 39C.050 and as clarified in administrative regulations,* and any requirements which may be imposed by the Federal Emergency Management Agency, or its successor *or other federal agencies providing financial support for emergency management programs in the Commonwealth*.

HCR 192, A CONCURRENT RESOLUTION establishing a task force to study the long-term funding needs for Fire Safety and Emergency Medical Service Providers of the Commonwealth of Kentucky.

WHEREAS, in the wake of the events of September 11, 2001, the need for firefighters and emergency medical service personnel to train and work together to meet the ever changing safety and security challenges has become more evident; and

WHEREAS, a cooperative effort among these agencies to operate together will play a large role in qualifying for federal money distributed for the use of homeland security and dealing with incidents involving weapons of mass destruction;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to establish a task force to study the need for long-term funding of fire protection services and emergency medical services of the Commonwealth. The task force shall have the following responsibilities:

(1) Identify sources of immediate and long-term funding for firefighters and emergency medical service providers for education and training, equipment, administrative and other necessary services;

(2) Identify deficits in current funding for firefighters and emergency medical service providers;

(3) Consider appropriate possibilities for coordination and consolidation of fire and emergency medical services where beneficial; and

(4) Review retirement and health insurance premiums for all firefighters and emergency medical service providers in the Commonwealth.

Section 2. The President of the Senate shall appoint three (3) members of the Senate and the Speaker of the House shall appoint three (3) members of the House of Representatives to the task force. The President of the Senate shall appoint one (1) legislative member as a co-chair, and the Speaker of the House shall appoint (1) legislative member as a co-chair of the task force. In addition to the legislative members, the task force shall consist of the following members, one-half of which, in each of the following categories, shall be appointed by the President of the Senate and one-half of which shall be appointed by the Speaker of the House of Representatives:

(1) Two (2) mayors of cities that operate fire and emergency medical services;

(2) Two (2) county judge/executives from counties that operate fire and emergency medical services;

(3) Two (2) administrators of licensed class 1 ground ambulance providers; and

(4) Two (2) representatives of private insurance companies that provide coverage for ambulance services.

The membership shall also consist of the following members:

(1) The chairman of the Kentucky Board of Emergency Medical Services;

(2) The executive director of the Kentucky Board of Emergency Medical Services;

(3) The chairman of the Commission on Fire Protection Personnel Standards and Education; and

(4) The executive director of the Commission on Fire Protection Personnel Standards and Education.

Four (4) members appointed by the Legislative Research Commission, with one (1) member representing each of the following interests:

(5) The Kentucky Ambulance Providers Association;

(6) The Kentucky Association of Fire Chiefs;

(7) The Kentucky Firefighters' Association; and

(8) The Kentucky Professional Firefighters' Association.

Section 3. Upon their appointment, members of the task force shall meet at least three (3) times prior to September 1, 2002. The task force shall submit a final report of its findings and recommendations no later than September 1, 2002, to the Legislative Research Commission.

Section 4. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Amendment No. 1 to **HCR 192** is as follows:

On page 2, line 3, after the words "task force.", add the following: "The House and Senate chairmen of the Interim Joint Committee on Local Government shall serve as ex officio members"; and

On page 3, line 3, after the words "Research Commission", insert the words "and the Interim Joint Committee on Local Government".

SB 141, AN ACT relating to law enforcement personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) No state, city, county, urban-county, charter county, or consolidated local government law enforcement agency shall set a residence requirement for any of its employees who do not possess peace officer powers.

(2) No state, city, county, urban-county, charter county, or consolidated local government law enforcement agency shall require that an employee, whether that employee is a peace officer or not, be a registered voter.

The Committee Substitute to **SB 141** is as follows:

SB 141, AN ACT relating to law enforcement personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) No state, city, county, urban-county, charter county, or consolidated local government law enforcement agency shall set a residence requirement, except requiring residence within the Commonwealth for any of its employees who do not possess peace officer powers.

(2) No state, city, county, urban-county, charter county, or consolidated local government law enforcement agency shall require that an employee, whether that employee is a peace officer or not, be a registered voter.

(3) The provisions of subsection (1) shall not preclude an employer or agency specified in subsection (1) from having a requirement for response to a specified location within a specified time limit for an employee or volunteer who is off-duty but who is on-call to respond for work.

SB 169, AN ACT relating to vehicle emisions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.20-720 is amended to read as follows:

(1) A compliance certificate shall be issued for each vehicle which meets and passes the annual inspection requirements. An exemption certificate may be issued under conditions adopted by the issuing authority, except that vehicles registered to military personnel on active duty whose duty station is outside of a county where a vehicle exhaust testing program is implemented shall receive an exemption certificate. A certificate shall be issued to a vehicle only at an official emissions inspection station established and operated under a valid permit issued by the cabinet. All certificates shall be serially numbered or otherwise identified. Certificates shall be strictly accounted for by the issuing authority.

(2) No vehicle registered in counties required by the cabinet to have a vehicle emission control program shall have its registration renewed pursuant to KRS Chapter 186 without a valid compliance certificate or exemption certificate issued pursuant to KRS 224.20-710 to 224.20-765. Vehicles with state or official registration routinely operating in these counties shall be inspected at *the same frequency as privately owned registered vehicles*[~~least once within each twelve (12) month period following the original registration~~].

The Committee on Transportation reported **HB 426,** with Committee Substitute attached thereto, **HB 506,** with Committee Substitute attached thereto, **HB 777, HJR 122, HCR 129, HJR 170, HJR 178, HJR 180, SJR 3, SJR 24,** with Committee Substitute and Committee Amendment attached thereto, and **SJR 42,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 426, AN ACT relating to motor vehicle operator's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 186.400 TO 186.640 IS CREATED TO READ AS FOLLOWS:

(1) A person who becomes a Kentucky resident shall apply for a Kentucky operator's license in the office of the circuit clerk in the county where the person has established his or her domicile.

(2) The circuit clerk shall, before issuing a person a Kentucky operator's license, verify through the National Drivers Register that the person applying for a Kentucky operator's license does not currently have his or her operator's license or driving privilege suspended or revoked in another licensing jurisdiction. If the person's operator's license or driving privilege is currently suspended or revoked in another licensing jurisdiction for a traffic offense other than a felony traffic offense or a habitual violator offense, the circuit clerk shall, subject to the provisions of this section, issue the person a Kentucky operator's license if the conviction causing the suspension or revocation is more than five (5) years old. If the conviction is less than five (5) years old, the circuit clerk shall not issue the person a Kentucky operator's license until the person resolves the matter in the other licensing jurisdiction and complies with the provisions of this chapter.

(3) A person whose operator's license has been suspended or revoked in another licensing jurisdiction, or the holder of a Kentucky operator's license whose driving privileges have been suspended in another licensing jurisdiction, may be issued a Kentucky license, or may renew a Kentucky license if:

(a) The conviction causing the suspension or revocation is more than five (5) years old; and

(b) The conviction is for a traffic offense other than a felony traffic offense or a habitual violator offense.

(4) A person issued a Kentucky operator's license in accordance with subsection (3) of this section shall be issued an operator's license marked "Valid in Kentucky Only" and shall sign a statement that the person understands that he or she may be subject to arrest and detention if stopped by a law enforcement officer in another state while operating a motor vehicle on this restricted license.

(5) If a person granted a license under subsection (3) of this section satisfies the requirements to have the suspension or revocation in another state lifted, the person shall apply to the circuit clerk to be issued a new license without the restrictions outlined in subsection (4) of this section.

(6) The provisions of subsection (3) of this section shall not apply to a commercial driver's license.

Section 2. KRS 186.440 is amended to read as follows:

An operator's license shall not be granted to:

(1) Any person under the age of sixteen (16);

(2) Any person under the age of eighteen (18) who holds a valid Kentucky instruction permit issued pursuant to KRS 186.450, but who has not graduated from high school or who is not enrolled and successfully participating in school or who is not being schooled at home, except those persons who satisfy the District Court of appropriate venue pursuant to KRS 159.051(3) that revocation of their license would create an undue hardship. Persons under the age of eighteen (18) shall present proof of complying with the requirements of KRS 159.051;

(3) Any person whose operator's license has been suspended, during the period of suspension***, subject to the limitations of Section 1 of this Act***;

(4) Any person whose operator's license has been revoked, nor to any nonresident whose privilege of exemption under KRS 186.430 has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued;

(5) Any applicant adjudged incompetent by judicial decree;

(6) Any person who in the opinion of the State Police, after examination, is unable to exercise reasonable and ordinary control over a motor vehicle upon the highways;

(7) Any person who is unable to understand highway warnings or direction signs in the English language;

(8) Any person required by KRS 186.480 to take an examination who has not successfully passed the examination;

(9) Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof;

(10) Any person who has not filed a correct and complete application attested to in the presence of a person authorized to administer oaths;

(11) Any person who cannot meet the requirements set forth in KRS 186.411(1) or (3); or

(12) Any person whose operator's license has been suspended or revoked under the provisions of KRS Chapter 186, 187, or 189A until the person has forwarded to the cabinet a reinstatement fee of fifteen dollars ($15). The fee shall be paid by

certified check or money order payable to the State Treasurer who shall deposit five dollars ($5) of the fee in a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers. Ten dollars ($10) of the fee shall be deposited by the State Treasurer in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees, providing salary adjustments for employees, providing training for employees, and purchasing additional equipment used in administering the issuance of driver's licenses. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of the individuals are reinstated or to any student who has had his license revoked pursuant to KRS 159.051.

Section 3. KRS 186.570 is amended to read as follows:

(1) The cabinet or its agent designated in writing for that purpose may deny any person an operator's license or may suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, subject to a hearing and with or without receiving a record of conviction of that person of a crime, if the cabinet has reason to believe that:

(a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.

(b) That person has, by reckless or unlawful operation of a motor vehicle, caused, or contributed to an accident resulting in death or injury or serious property damage.

(c) That person has a mental or physical disability that makes it unsafe for him to drive upon the highways. The Transportation Cabinet shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish a medical review board to provide technical assistance in the review of the driving ability of these persons. The board shall consist of licensed medical and rehabilitation specialists.

(d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.

(e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and administrative regulations promulgated pursuant to KRS Chapter 13A.

(f) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.

(g) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.

(h) That person has failed to appear pursuant to a citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.

(i) That person has failed to appear pursuant to an order by the court to produce proof of security required by KRS 304.39-010 and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.

(2) The cabinet shall deny any person a license or shall suspend the license of an operator of a motor vehicle upon receiving written notification from the Cabinet for Families and Children that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment or failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings, as provided by 42 U.S.C. secs. 651 et seq.; except that any child support arrearage which exists prior to January 1, 1994, shall not be included in the calculation to determine whether the license of an operator of a motor vehicle shall be denied or suspended. The denial or suspension shall continue until the arrearage has been eliminated, payments on the child support arrearage are being made in accordance with a court or administrative order, or the person complies with the subpoena or warrant relating to paternity or child support. Before the license may be reinstated, proof of elimination of the child support arrearage or proof of compliance with the subpoena or warrant relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16) from the court where the action is pending or the Cabinet for Families and Children shall be received by the Transportation Cabinet as prescribed by administrative regulations promulgated by the Cabinet for Families and Children and the Transportation Cabinet.

(3) The cabinet or its agent designated in writing for that purpose shall deny any person an operator's license or shall suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, where the person has been declared ineligible to operate a motor vehicle under KRS 532.356 for the duration of the ineligibility, upon notification of the court's judgment.

(4) The cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation, or withdrawal of their driving privileges, under provisions of this section, an informal hearing. Upon determining that the action is warranted, the cabinet shall notify the person in writing by mailing the notice to the person by first-class mail to the last known address of the person. The hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails the notice. The hearing shall be scheduled as early as practical within twenty (20) days after receipt of the request at a time and place designated by the cabinet. An aggrieved party may appeal a decision rendered as a result of an informal hearing, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(5) ***(a)*** The cabinet may suspend the operator's license of any resident upon receiving notice of the conviction of that person in another state of an offense there which*,* if committed in this state*,* would be grounds for the suspension or revocation of an operator's license. ***The cabinet shall not suspend the operator's license under this paragraph if:***

1. The conviction is for an offense that is more than five (5) years old; and

2. The conviction is for a traffic offense other than a felony traffic offense or a habitual violator offense.

(b) If, at the time of application for an initial Kentucky operator's license, a person's license is suspended or revoked in another state for a conviction that is less than five (5) years old~~[If a person so convicted is not the holder of a Kentucky operator's license]~~, the cabinet shall deny ***the person***~~[him]~~ a license ***until the person resolves the matter in the other state and complies with the provisions of this chapter***~~[for the same period as if he had possessed a license and the license had been suspended]~~.

(c) The cabinet may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the convicted person is a resident.

(d) This subsection shall not apply to a commercial driver's license.

(6) The Transportation Cabinet is forbidden from suspending or revoking an operator's license or assessing points or any other form of penalty against the license holder for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations. This section shall not apply to a commercial driver's license.

(7) Each operator's license which has been canceled, suspended, or revoked shall be surrendered to and retained by the cabinet. At the end of the period of cancellation, suspension, or revocation, the license may be returned to the licensee after he has complied with all requirements for the issuance or reinstatement of his driving privilege.

(8) Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder's driving privilege has been suspended or denied pursuant to subsection (2) of this section.

Section 4. KRS 186.860 is amended to read as follows:

The secretary of the Transportation Cabinet, the commissioner of the Department of Vehicle Regulation, or a duly authorized agent, is hereby authorized and directed to negotiate with other states for the purpose of developing and joining the ***"Driver's License Agreement," or*** "Nonresident Violator Compact." The department may promulgate regulations concerning the administration of ***a***~~[such]~~ compact and shall prescribe the penalties and procedures for the required compliance***, subject to the limitations imposed by Sections 1 and 3 of this Act***.

Section 5. The Transportation Cabinet shall amend existing administrative regulations or promulgate new administrative regulations in accordance with KRS Chapter 13A to implement the provisions of this Act within thirty days of the effective date of this Act.

The Committee Substitute to **HB 426** is as follows:

HB 426, AN ACT relating to motor vehicle operator's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 186.400 TO 186.640 IS CREATED TO READ AS FOLLOWS:

(1) A licensed driver who becomes a Kentucky resident shall, within thirty (30) days of establishing residency, apply for a Kentucky operator's license in the office of the circuit clerk in the county where the person has established his or her domicile.

(2) A person whose operator's license, other than a commercial driver's license, has been suspended or revoked in another licensing jurisdiction, or the holder of a Kentucky operator's license whose driving privileges have been suspended or revoked in another licensing jurisdiction, may be issued a Kentucky license, or may renew a Kentucky license, if:

(a) The suspension period based upon a conviction from the other jurisdiction has expired and the suspension remains as a result of a failure to meet compliance requirements involving reinstatement of driving privileges;

(b) The person completes the Kentucky equivalent reinstatement requirements for compliance in this state and provides documentation of completion to the circuit clerk or Transportation Cabinet; and

(c) The person has been a resident of Kentucky for one (1) year or more.

(3) A person issued a Kentucky operator's license under this section shall sign a statement that the person understands that he or she may be subject to arrest and detention if stopped by a law enforcement officer in another state while operating a motor vehicle on the license.

(4) Upon issuing an operator's license under this section, the Transportation Cabinet shall notify the other licensing jurisdiction imposing the suspension that the operator has complied with reinstatement requirements in Kentucky and instruct the other jurisdiction to remove the suspension from the National Driver Register.

Section 2. KRS 186.440 is amended to read as follows:

An operator's license shall not be granted to:

(1) Any person under the age of sixteen (16);

(2) Any person under the age of eighteen (18) who holds a valid Kentucky instruction permit issued pursuant to KRS 186.450, but who has not graduated from high school or who is not enrolled and successfully participating in school or who is not being schooled at home, except those persons who satisfy the District Court of appropriate venue pursuant to KRS 159.051(3) that revocation of their license would create an undue hardship. Persons under the age of eighteen (18) shall present proof of complying with the requirements of KRS 159.051;

(3) Any person whose operator's license has been suspended, during the period of suspension*, subject to the limitations of Section 1 of this Act*;

(4) Any person whose operator's license has been revoked, nor to any nonresident whose privilege of exemption under KRS 186.430 has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued;

(5) Any applicant adjudged incompetent by judicial decree;

(6) Any person who in the opinion of the State Police, after examination, is unable to exercise reasonable and ordinary control over a motor vehicle upon the highways;

(7) Any person who is unable to understand highway warnings or direction signs in the English language;

(8) Any person required by KRS 186.480 to take an examination who has not successfully passed the examination;

(9) Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof;

(10) Any person who has not filed a correct and complete application attested to in the presence of a person authorized to administer oaths;

(11) Any person who cannot meet the requirements set forth in KRS 186.411(1) or (3); or

(12) Any person whose operator's license has been suspended or revoked under the provisions of KRS Chapter 186, 187, or 189A until the person has forwarded to the cabinet a reinstatement fee of fifteen dollars ($15). The fee shall be paid by certified check or money order payable to the State Treasurer who shall deposit five dollars ($5) of the fee in a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers. Ten dollars ($10) of the fee shall be deposited by the State Treasurer in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees, providing salary adjustments for employees, providing training for employees, and purchasing additional equipment used in administering the issuance of driver's licenses. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of the individuals are reinstated or to any student who has had his license revoked pursuant to KRS 159.051.

Section 3. KRS 186.570 is amended to read as follows:

(1) The cabinet or its agent designated in writing for that purpose may deny any person an operator's license or may suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, subject to a hearing and with or without receiving a record of conviction of that person of a crime, if the cabinet has reason to believe that:

  (a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.

  (b) That person has, by reckless or unlawful operation of a motor vehicle, caused, or contributed to an accident resulting in death or injury or serious property damage.

  (c) That person has a mental or physical disability that makes it unsafe for him to drive upon the highways. The Transportation Cabinet shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish a medical review board to provide technical assistance in the review of the driving ability of these persons. The board shall consist of licensed medical and rehabilitation specialists.

  (d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.

  (e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and administrative regulations promulgated pursuant to KRS Chapter 13A.

  (f) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.

  (g) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.

  (h) That person has failed to appear pursuant to a citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.

  (i) That person has failed to appear pursuant to an order by the court to produce proof of security required by KRS 304.39-010 and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.

(2) The cabinet shall deny any person a license or shall suspend the license of an operator of a motor vehicle upon receiving written notification from the Cabinet for Families and Children that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment or failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings, as provided by 42 U.S.C. secs. 651 et seq.; except that any child support arrearage which exists prior to January 1, 1994, shall not be included in the calculation to determine whether the license of an operator of a motor vehicle shall be denied or suspended. The denial or suspension shall continue until the arrearage has been eliminated, payments on the child support arrearage are being made in accordance with a court or administrative order, or the person complies with the subpoena or warrant relating to paternity or child support. Before the license may be reinstated, proof of elimination of the child support arrearage or proof of compliance with the subpoena or warrant relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16) from the court where the action is pending or the Cabinet for Families and Children shall be received by the Transportation Cabinet as prescribed by administrative regulations promulgated by the Cabinet for Families and Children and the Transportation Cabinet.

(3) The cabinet or its agent designated in writing for that purpose shall deny any person an operator's license or shall suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, where the person has been declared ineligible to operate a motor vehicle under KRS 532.356 for the duration of the ineligibility, upon notification of the court's judgment.

(4) The cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation, or withdrawal of their driving privileges, under provisions of this section, an informal hearing. Upon determining that the action is warranted, the cabinet shall notify the person in writing by mailing the notice to the person by first-class mail to the last known address of the person. The hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails the notice. The hearing shall be scheduled as early as practical within twenty (20) days after receipt of the request at a time and place designated by the cabinet. An aggrieved party may appeal a decision rendered as a result of an informal hearing, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(5) ***(a)*** The cabinet may suspend the operator's license of any resident upon receiving notice of the conviction of that person in another state of an offense there which***,*** if committed in this state***,*** would be grounds for the suspension or revocation of an operator's license. ***The cabinet shall not suspend the operator's license under this paragraph if the person meets the requirements of Section 1 of this Act.***

(b) If, at the time of application for an initial Kentucky operator's license, a person's license is suspended or revoked in another state[~~If a person so convicted is not the holder of a Kentucky operator's license~~], the cabinet shall deny ***the person***[~~him~~] a license ***until the person resolves the matter in the other state and complies with the provisions of this chapter***[~~for the same period as if he had possessed a license and the license had been suspended~~].

(c) The cabinet may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the convicted person is a resident.

(d) This subsection shall not apply to a commercial driver's license.

(6) The Transportation Cabinet is forbidden from suspending or revoking an operator's license or assessing points or any other form of penalty against the license holder for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations. This section shall not apply to a commercial driver's license.

(7) Each operator's license which has been canceled, suspended, or revoked shall be surrendered to and retained by the cabinet. At the end of the period of cancellation, suspension, or revocation, the license may be returned to the licensee after he has complied with all requirements for the issuance or reinstatement of his driving privilege.

(8) Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder's driving privilege has been suspended or denied pursuant to subsection (2) of this section.

Section 4. KRS 186.860 is amended to read as follows:

The secretary of the Transportation Cabinet, the commissioner of the Department of Vehicle Regulation, or a duly authorized agent, is hereby authorized and directed to negotiate with other states for the purpose of developing and joining the ***"Driver's License Compact," "Driver's License Agreement," or*** "Nonresident Violator Compact." The department may promulgate regulations concerning the administration of ***a***[~~such~~] compact and shall prescribe the penalties and procedures for the required compliance***, subject to the limitations imposed by Sections 1 and 3 of this Act***.

Section 5. The Transportation Cabinet shall amend existing administrative regulations or promulgate new administrative regulations in accordance with KRS Chapter 13A to implement the provisions of this Act within thirty days of the effective date of this Act.

HB 506, AN ACT relating to historic motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.115 is amended to read as follows:

(1) Except as otherwise provided in this section, the owner of every vehicle brought into this state and required to be titled in this state shall, before submitting his application for title to the county clerk, have the vehicle together with his application for title and its supporting documents inspected by a certified inspector in the county in which the application for title is to be submitted to the county clerk.

(a) The certified inspector shall be certified through the Department of Vehicle Regulation following requirements set forth by the department by regulation and shall be designated by the county sheriff. The certified inspector will be held responsible for all certifications required pursuant to this chapter and will be liable for any and all penalties prescribed in this chapter, and shall be available during regular office hours at any and all offices and branches that issue applications for titles.

(b) There shall be a five dollar ($5) fee for this certification, payable to the sheriff's office, upon completion of certification.

(c) There shall be an additional fee of ten dollars ($10) per trip when it becomes necessary for the certified inspector to travel to the site of the vehicle rather than bringing the vehicle to the sheriff's inspection area.

(2) The following vehicles are excluded from the requirement of inspection by a certified inspector prior to titling in this state:

(a) New motor vehicles sold by a dealer licensed in this state;

(b) Vehicles required to be registered in this state by reason of lack of a reciprocity agreement with another state and for which a nonnegotiable registration document is to be issued;

(c) Motor vehicles operated by a motor carrier under a nonnegotiable certificate or permit issued by the Department of Vehicle Regulation;

(d) Motor vehicles owned by servicemen or servicewomen who are residents of Kentucky stationed outside of Kentucky may be inspected by the post provost or similar officer of the camp, post, or station. The post provost or similar officer shall submit an affidavit stating the name of the owner, the identification or serial number, the make, body style, current license or title number, if any, and state in which currently registered or titled, if any, of the motor vehicle;~~[and]~~

(e) Motor vehicles no longer located in Kentucky but which require inspection in order to issue a corrected Kentucky title due to error in vehicle identification or serial number may be inspected by an inspector authorized to inspect vehicle identification or serial number by the laws of the state or foreign country where application for a new title has been submitted***; and***

(f) Motor vehicles being registered as historic motor vehicles under KRS 186.043, including motor vehicles that may be mechanically inoperable but in no other way meet the definition of a salvage vehicle, as defined in KRS 186A.520.

(3) When presented to a certified inspector for inspection or to a county clerk for processing, the owner's application for a first certificate of registration or title in his name shall be accompanied by proof of insurance in compliance with KRS 304.39-080 and one (1) of the following documents as applicable:

(a) If the vehicle is a new vehicle not previously registered in this state, the properly assigned manufacturer's statement of origin for the vehicle for which registration or title is sought;

(b) If the vehicle was last registered in this state, and is a vehicle for which a title is not required in this state, a certificate of registration, or if the vehicle is one for which a certificate of title is required in this state, a properly assigned certificate of title;

(c) If the vehicle was last previously titled in another state, a properly assigned certificate of title;

(d) If the application refers to a vehicle previously registered in another country, the documents of that country establishing ownership of the vehicle;

(e) If the application refers to a vehicle last previously registered in another country by a person on active duty in the Armed Forces of the United States, the county clerk may accept on behalf of the Department of Vehicle Regulation evidence of ownership provided the applicant by the United States Department of Defense; and

(f) If the application relates to a vehicle which has been specially constructed or reconstructed, that fact shall be stated in the application, and the application shall be accompanied by such documents as are specified by administrative regulations of the Department of Vehicle Regulation.

(4) When requested to inspect a vehicle pursuant to this section, the certified inspector shall personally and physically inspect the vehicle, when registration or title is sought in this state, on the following points:

(a) He shall ensure that the application is legible and properly executed to the extent required at the time of execution;

(b) He shall compare the vehicle identification number as appearing on both the vehicle identification number plate, and the federal safety standards label of the vehicle which is sought to be registered or titled, with the corresponding number inscribed on the application, and its supporting documentation, and ensure that the vehicle identification number appearing at each described location appears legitimate and that they are consistent with each other;

(c) He shall examine the primary odometer of the vehicle and legibly record the reading in the space provided in the inspection section of the application; and

(d) After exercising due diligence in inspecting the vehicle, the application, and its supporting documentation, and finding that they appear to be in order, the certified inspector shall execute the preprinted certificate of inspection according to its terms by printing in the spaces provided his first name, middle initial, and last name, and his title; the name of the county in which he serves; and the telephone number including the telephone area code of his agency, and sign in ink his signature in the space provided, and print the month, day, and year in which his inspection was made, certifying under penalty of forgery in the second degree the character, accuracy, and date of his inspection.

(5) The certified inspector shall refrain from executing the certificate of inspection if:

(a) He has not personally and physically inspected the vehicle in accordance with this section;

(b) He has reason to believe that the vehicle displays an unlawfully altered vehicle identification number;

(c) The application and any of its copies are illegible or otherwise improperly executed, or contain information reasonably believed to be inaccurate or fraudulent;

(d) The documentation required in support of any application is not present, or not consistent with the vehicle and the owner's application or appears fraudulent; or

(e) He has probable cause to believe the vehicle is stolen.

The Committee Substitute to **HB 506** is as follows:

HB 506, AN ACT relating to historic motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.115 is amended to read as follows:

(1) Except as otherwise provided in this section, the owner of every vehicle brought into this state and required to be titled in this state shall, before submitting his application for title to the county clerk, have the vehicle together with his application for title and its supporting documents inspected by a certified inspector in the county in which the application for title is to be submitted to the county clerk.

(a) The certified inspector shall be certified through the Department of Vehicle Regulation following requirements set forth by the department by regulation and shall be designated by the county sheriff. The certified inspector will be held responsible for all certifications required pursuant to this chapter and will be liable for any and all penalties prescribed in this chapter, and shall be available during regular office hours at any and all offices and branches that issue applications for titles.

(b) There shall be a five dollar ($5) fee for this certification, payable to the sheriff's office, upon completion of certification.

(c) There shall be an additional fee of ten dollars ($10) per trip when it becomes necessary for the certified inspector to travel to the site of the vehicle rather than bringing the vehicle to the sheriff's inspection area.

(2) The following vehicles are excluded from the requirement of inspection by a certified inspector prior to titling in this state:

(a) New motor vehicles sold by a dealer licensed in this state;

(b) Vehicles required to be registered in this state by reason of lack of a reciprocity agreement with another state and for which a nonnegotiable registration document is to be issued;

(c) Motor vehicles operated by a motor carrier under a nonnegotiable certificate or permit issued by the Department of Vehicle Regulation;

(d) Motor vehicles owned by servicemen or servicewomen who are residents of Kentucky stationed outside of Kentucky may be inspected by the post provost or similar officer of the camp, post, or station. The post provost or similar officer shall submit an affidavit stating the name of the owner, the identification or serial number, the make, body style, current license or title number, if any, and state in which currently registered or titled, if any, of the motor vehicle; and

(e) Motor vehicles no longer located in Kentucky but which require inspection in order to issue a corrected Kentucky title due to error in vehicle identification or serial number may be inspected by an inspector authorized to inspect vehicle identification or serial number by the laws of the state or foreign country where application for a new title has been submitted.

(3) When presented to a certified inspector for inspection or to a county clerk for processing, the owner's application for a first certificate of registration or title in his name shall be accompanied by proof of insurance in compliance with KRS 304.39-

080 and one (1) of the following documents as applicable:

(a) If the vehicle is a new vehicle not previously registered in this state, the properly assigned manufacturer's statement of origin for the vehicle for which registration or title is sought;

(b) If the vehicle was last registered in this state, and is a vehicle for which a title is not required in this state, a certificate of registration, or if the vehicle is one for which a certificate of title is required in this state, a properly assigned certificate of title;

(c) If the vehicle was last previously titled in another state, a properly assigned certificate of title;

(d) If the application refers to a vehicle previously registered in another country, the documents of that country establishing ownership of the vehicle;

(e) If the application refers to a vehicle last previously registered in another country by a person on active duty in the Armed Forces of the United States, the county clerk may accept on behalf of the Department of Vehicle Regulation evidence of ownership provided the applicant by the United States Department of Defense; and

(f) If the application relates to a vehicle which has been specially constructed or reconstructed, that fact shall be stated in the application, and the application shall be accompanied by such documents as are specified by administrative regulations of the Department of Vehicle Regulation.

(4) When requested to inspect a vehicle pursuant to this section, the certified inspector shall personally and physically inspect the vehicle, when registration or title is sought in this state, on the following points:

(a) He shall ensure that the application is legible and properly executed to the extent required at the time of execution;

(b) He shall compare the vehicle identification number as appearing on both the vehicle identification number plate, and the federal safety standards label of the vehicle which is sought to be registered or titled, with the corresponding number inscribed on the application, and its supporting documentation, and ensure that the vehicle identification number appearing at each described location appears legitimate and that they are consistent with each other;

(c) He shall examine the primary odometer of the vehicle and legibly record the reading in the space provided in the inspection section of the application; and

(d) After exercising due diligence in inspecting the vehicle, the application, and its supporting documentation, and finding that they appear to be in order, the certified inspector shall execute the preprinted certificate of inspection according to its terms by printing in the spaces provided his first name, middle initial, and last name, and his title; the name of the county in which he serves; and the telephone number including the telephone area code of his agency, and sign in ink his signature in the space provided, and print the month, day, and year in which his inspection was made, certifying under penalty of forgery in the second degree the character, accuracy, and date of his inspection.

(5) The certified inspector shall refrain from executing the certificate of inspection if:

(a) He has not personally and physically inspected the vehicle in accordance with this section;

(b) He has reason to believe that the vehicle displays an unlawfully altered vehicle identification number;

(c) The application and any of its copies are illegible or otherwise improperly executed, or contain information reasonably believed to be inaccurate or fraudulent;

(d) The documentation required in support of any application is not present, or not consistent with the vehicle and the owner's application or appears fraudulent; or

(e) He has probable cause to believe the vehicle is stolen.

(6) Inspections on motor vehicles that meet the definition of a historic motor vehicle under KRS 186.043(2) and are brought into this state shall be limited to verification of the vehicle identification number with supporting documentation for purposes of titling.

HB 777, AN ACT relating to the Kentucky Asset/Liability Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.8605 is amended to read as follows:

As used in KRS 56.860 to 56.869:

(1) "Authorized project" means:

(a) Any project approved by the General Assembly and included in an enacted budget; or

(b) Any project approved by the General Assembly that is certified by the secretary of the Finance and Administration Cabinet in accordance with the provisions of KRS 56.870, to be of a type that will independently produce revenues *or will be payable from receipts of federal transportation funds that are projected by the commission to be* sufficient to fully meet debt service, issuance costs, reserve fund requirements, insurance premiums, or any other expenditures necessary for financing so that no appropriation of state funds is required;

(2) "Cabinet" means the Finance and Administration Cabinet;

(3) "Commercial paper" means obligations that by their terms mature not more than three hundred sixty-six (366) days from the date of their issuance and that may be refunded;

(4) "Commission" means the Kentucky Asset/Liability Commission;

(5) "Estimated revenues" means the detailed revenue estimate or revised revenue estimate as certified by the secretary of the Finance and Administration Cabinet pursuant to KRS 48.115 and 48.120 on or before the dates on which tax and revenue anticipation notes are awarded to the purchaser;

(6) "Financial agreements" means interest rate swaps, options, or other agreements between two (2) parties to exchange or have the conditional right to exchange interest rate exposure from fixed rate to variable rate or from variable rate to fixed rate, or to provide other economic benefit to an issuance of notes or a portfolio of notes, or to hedge the net interest margin of the Commonwealth;

(7) "Financing agreement" means an agreement between the commission and the cabinet, or between the cabinet and a state agency, relating to the funding of projects or items associated with projects as described in KRS 56.867(3), or a judgment against a state agency or the Commonwealth. The provisions of a financing agreement shall require either the cabinet to make payments to the commission relating to the commission's issuance of notes, or the state agency to make payments to the cabinet reimbursing the cabinet for its payments to the commission on the agency's behalf. The obligations of the cabinet or the state agency under a financing agreement shall be contingent upon appropriations by the General Assembly to the cabinet or to the agency for the payment of those obligations;

(8) "Fixed-rate obligations" means obligations on which the interest rate remains constant to maturity;

(9) "Funding notes" means notes issued under the provisions of KRS 56.860 to 56.869 by the commission with a final maturity of not more than ten (10) years for the purpose of funding judgments;

(10) "Interest-sensitive assets" means tangible and intangible property held by the Commonwealth whose market value is dependent upon the level of interest rates;

(11) "Interest-sensitive liabilities" means interest-bearing debts or other obligations of the Commonwealth or a state agency;

(12) "Multimodal obligations" means obligations for which the time period for establishing the rate of interest may be selectively determined and altered;

(13) "Net interest margin" means the net income or expense associated with the difference between the Commonwealth's interest-sensitive assets and interest-sensitive liabilities;

(14) "Project notes" means notes issued under the provisions of KRS 56.860 to 56.869 by the commission with a final maturity of not more than ***twenty (20)***[~~ten (10)~~] years for the purpose of funding authorized projects, which may include bond anticipation notes;

(15) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, and set out in KRS Chapter 12, or any board, commission, institution, state university, or division exercising any function of the Commonwealth;

(16) "Tax and revenue anticipation notes" means notes that are issued under the provisions of KRS 56.860 to 56.869 by the commission with a final maturity that is no later than the last day of the fiscal year during which the tax and revenue anticipation notes are issued and that are issued in anticipation of estimated revenues to be received in that fiscal year; and

(17) "Variable-rate demand obligations" means obligations on which the rate of interest is set by reference to a predetermined index or formula, by auction, by an agent that, in the sole judgment of the commission, has the financial expertise to establish market interest rates, or by similar means.

Section 2. KRS 56.863 is amended to read as follows:

The commission shall have the power and duty to:

(1) Maintain the records and perform the functions necessary and proper to accomplish the purposes of KRS 56.860 to 56.869;

(2) Promulgate administrative regulations relating to KRS 56.860 to 56.869;

(3) Conduct analysis to determine the impact of fluctuating receipts of revenues on the budget of the Commonwealth, fluctuating interest rates upon the interest-sensitive assets and interest-sensitive liabilities of the Commonwealth, and the resulting change in the net interest margin on the budget of the Commonwealth;

(4) Develop strategies to mitigate the impact of fluctuating receipts of revenues on the budget of the Commonwealth and of fluctuating interest rates on the Commonwealth's interest-sensitive assets and interest-sensitive liabilities;

(5) Report its findings to the State Investment Commission at least annually to assist the State Investment Commission in developing and implementing its investment strategy. The State Investment Commission shall provide the commission with a copy of its monthly investment income report to aid the commission in developing and implementing its strategies;

(6) Issue funding notes, project notes, and tax and revenue anticipation notes or other obligations on behalf of any state

agency to fund authorized projects or to satisfy judgments;

(7) Refund any funding notes, project notes, or tax and revenue anticipation notes issued under KRS 56.860 to 56.869 to achieve economic savings, to better match receipts with expenditures, or as a part of a continuing finance program;

(8) Designate individual employees or officers of the Office of Financial Management as agents for purposes of approving the principal amount of tax and revenue anticipation notes, the interest rate, the discount, maturity date, and other relevant terms of tax and revenue anticipation notes, project notes, and funding notes or refunding notes issued within constraints established by the commission and to execute agreements, including notes and financial agreements, for the commission;

(9) Enter into financial agreements for the purpose of hedging ***its current or projected***~~[a portfolio of]~~ interest-sensitive assets and interest-sensitive liabilities to stabilize the Commonwealth's net interest margin, as deemed necessary by the commission, subject to administrative regulations promulgated by the commission that limit the net exposure of the Commonwealth as a result of these financial agreements;

(10) Deposit net interest payments and premiums received by the commission under financial agreements~~[relating to funding notes, project notes, and tax and revenue anticipation notes]~~ into a restricted account, which shall not lapse at the end of the fiscal year but shall continue to accumulate to act as security for these financial agreements. This duty is mandatory in nature. Any accumulated funds in excess of the amount determined by the commission to be necessary to establish this security may be applied to debt service payments, net interest payments, and premiums and expenses related to ***interest-sensitive liabilities***~~[tax and revenue anticipation notes, project notes, and funding notes]~~; and

(11) Report to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue on a semiannual basis, by September 30 and March 31 of each year, the following:

  (a) A description of the Commonwealth's investment and debt structure;

  (b) The plan developed to mitigate the impact of fluctuating revenue receipts on the budget of the Commonwealth and fluctuating interest rates on the interest-sensitive assets and interest-sensitive liabilities of the Commonwealth, including an analysis of the impact that a change in the net interest margin would have on the budget of the Commonwealth. The report due by March 31 of each year shall reflect the strategy for January through June of the fiscal year, and the report due by September 30 shall reflect the strategy for July through December of the fiscal year;

  (c) The principal amount of notes issued, redeemed, and outstanding; and a description of all financial agreements entered into during the reporting period. The report due by March 31 shall include information about agreements entered into from July through December of the fiscal year. The report due by September 30 shall include information about agreements entered into between January and June of the prior fiscal year; and

  (d) A summary of gains and losses associated with financial agreements and any other cash flow strategies undertaken by the commission to mitigate the effect of fluctuating interest rates during each reporting period. The report due by March 31 shall include information about agreements and strategies entered into or undertaken from July through December of the fiscal year. The report due by September 30 shall include information about agreements and strategies entered into or undertaken from January through June of the prior fiscal year.

HJR 122, A JOINT RESOLUTION directing the Transportation Cabinet to conduct a study to assess the transportation needs of persons living in counties adjacent to Lake Cumberland.

WHEREAS, Lake Cumberland provides a valuable recreational and scenic attraction for both in-state and out-of-state visitors; and

WHEREAS, Lake Cumberland provides numerous jobs for citizens in the surrounding counties; and

WHEREAS, Lake Cumberland is both a recreational and scenic attraction to hundreds of thousands of visitors annually while it is simultaneously home to the thousands of citizens who reside in surrounding counties; and

WHEREAS, Lake Cumberland's sheer size often presents unique transportation problems for citizens who reside in surrounding counties, often requiring citizens to drive extensive distances to reach their county seat; and

WHEREAS, these unique transportation problems necessitate unique solutions;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to undertake a study to consider various modes of transportation that may be employed to assist citizens who reside in areas of a county that are separated from their county seat by Lake Cumberland. The Transportation Cabinet shall consider the feasibility of lake ferries and shuttle boats as potential methods of transportation at Lake Cumberland.

Section 2. The study shall be conducted with the assistance of county judge/executives, local legislative bodies, and state legislators from all counties adjacent to Lake Cumberland, and with local chambers of commerce and tourism organizations that represent businesses such as hotels, motels, restaurants, and recreational boating in the area.

Section 3. The Transportation Cabinet, as an integral component of the study, shall consider and weigh any possible solution to transportation problems in the area vis-à-vis the impact any solution may have upon tourism at Lake Cumberland.

Section 4. The study findings and recommendations shall be reported to the Legislative Research Commission no later than October 30, 2003.

HCR 129, A CONCURRENT RESOLUTION establishing the Immigrant Driver's Licensing Task Force.

WHEREAS, there are public safety concerns over the number of undocumented foreign nationals without drivers' licenses currently driving on Kentucky's highways; and

WHEREAS, undocumented foreign nationals do not have Social Security numbers, drivers' licenses, or other documents which could be used in identifying those individuals; and

WHEREAS, it is estimated that there are currently upwards of 60,000 undocumented foreign nationals in Kentucky; and

WHEREAS, many undocumented foreign nationals possess skills essential to Kentucky employers in the health care, agriculture, computer, and equine industries, among others; and

WHEREAS, Kentucky employers are often unable to employ sufficient numbers of workers to fill these essential positions; and

WHEREAS, the issue of licenses for undocumented foreign nationals deserves study because of its impact on highway safety, national security, and the economy;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Immigrant Driver's Licensing Task Force is created to study the problems associated with undocumented foreign nationals driving without obtaining legal driver's licenses. The task force shall examine Transportation Cabinet procedures and the effect this issue has on national security, highway safety, and Kentucky employers.

Section 2. The task force shall consist of seven members as follows:

(1) Two members of the Kentucky Senate, appointed by the President of the Senate;

(2) Two members of the Kentucky House of Representatives, appointed by the Speaker of the House;

(3) The director of the Division of Driver's Licensing within the Transportation Cabinet;

(4) The Commissioner of Agriculture; and

(5) One circuit clerk, appointed by the Legislative Research Commission from a list of five nominees submitted by the Circuit Clerks' Association.

Section 3. A majority of members shall serve as a quorum. The President of the Senate shall appoint one of the Senate members to serve as co-chair of the task force and the Speaker of the House shall appoint one of the House members to serve as co-chair of the task force. The task force shall be staffed by Legislative Research Commission Staff.

Section 4. The task force shall report its findings and legislative recommendations to the Legislative Research Commission no later than November 30, 2002.

Section 5. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

HJR 170, A JOINT RESOLUTION memorializing Dr. R. R. Evans.

WHEREAS, Dr. R. R. Evans, a native of Bell County, Kentucky, spent his entire life helping and serving the citizens of Bell County; and

WHEREAS, Dr. R. R. Evans served as a coal camp doctor and operated a private practice in the community of Arjay for over sixty years, from 1929 to 1990; and

WHEREAS, Dr. R. R. Evans served for twenty years on the Bell County Board of Education; and

WHEREAS, Dr. R. R. Evans has had a profound, direct, and personal impact on thousands of Bell Countians, and is fondly remembered for his acts of charity and goodwill;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name the bridge at the junction of Kentucky Route 221 and Kentucky Route 66 in Bell County the "Dr. R. R. Evans Memorial Bridge."

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs on the bridge specified in Section 1 of this Act that read "Dr. R. R. Evans Memorial Bridge."

HJR 178, A JOINT RESOLUTION naming Kentucky Route 81 in McLean County in honor of John Rowan.

WHEREAS, John Rowan was born in Calhoun in McLean County; and

WHEREAS, in 1818, John Rowan completed building his family estate known as Federal Hill in Bardstown, Kentucky; and

WHEREAS, in 1852, Stephen Foster visited John Rowan at Federal Hill and wrote his most famous ballad "My Old Kentucky Home"; and

WHEREAS, in 1922, Federal Hill and the 285 acres upon which it sits was deeded to the Commonwealth of Kentucky; and

WHEREAS, a man of great talent and distinction, John Rowan served on the Kentucky Court of Appeals and in the United States Senate;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name Kentucky Route 81 in McLean County the "John Rowan Memorial Highway."

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs on Kentucky Route 81 at the Daviess/McLean County line and at the McLean/Muhlenberg County line that read the "John Rowan Memorial Highway."

HJR 180, A JOINT RESOLUTION memorializing former State Representative Richard "Hoppy" Hopkins.

WHEREAS, Richard Hopkins was a vital force in the educational, political, and civic life of McLean County for his entire life; and

WHEREAS, Richard Hopkins dedicated his life to the education of children through his work as an agriculture and industrial arts teacher in the McLean County schools; and

WHEREAS, Richard Hopkins continued this work as an administrator, serving as McLean County School Superintendent; and

WHEREAS, Richard Hopkins also served as Mayor of the City of Calhoun and as McLean County Judge-Executive; and

WHEREAS, Richard Hopkins was selected four times by the people of McLean County to be their State Representative, in 1958, 1960, 1966, and 1968; and

WHEREAS, Richard Hopkins should be remembered fondly and tangibly for a life spent in service to others;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name the Kentucky Route 136 in McLean County from the Green River to the intersection of Kentucky Route 81 the "Richard "Hoppy" Hopkins Memorial Highway."

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs at each end of the bridge specified in Section 1 of this Act that read "Richard "Hoppy" Hopkins Memorial Highway."

SJR 3, A JOINT RESOLUTION honoring the memory of Alvin C. Poweleit, M.D.

We pause in humble reverence to pay tribute to a fallen hero, our native son Alvin C. Poweleit, M.D., who has crossed that final bourne from which no traveler returns.

WHEREAS, in 1942, 70,000 American and Filipino soldiers were captured by the Japanese on the Bataan peninsula of Western Luzon, in the Republic of the Philippines; and

WHEREAS, what history has branded "The Bataan Death March" began on April 9, 1942, when these 70,000 prisoners of war were forced to march fifty-five miles from Mariveles, on the southern end of the Bataan peninsula, to San Fernando, where they were taken by rail to Capas, and then forced to march the remaining eight miles to Camp O'Donnell; and

WHEREAS, during the forced march across the Bataan peninsula, the American and Filipino prisoners of war were treated savagely by their captors, being starved, kicked, and beaten, with many who fell along the way bayoneted; and

WHEREAS, of the 70,000 men who began the Bataan Death March, only 54,000 struggled into Camp O'Donnell because almost 10,000 of their compatriots died as a result of the horrific conditions under which they were forced to march -- the remainder were assumed to have escaped into the Philippine jungle, their fate unknown; and

WHEREAS, Alvin C. Poweleit, M.D., found the courage and the fortitude to survive the Bataan Death March and he dedicated his life in search of compassion for his fellow man; and

WHEREAS, Alvin C. Poweleit, M.D., was a respected physician in Northern Kentucky for decades, never turning away anyone in need of medical treatment; and

WHEREAS, Alvin C. Poweleit, M.D., was a benevolent humanitarian who tirelessly worked in a myriad of charitable endeavors; and

WHEREAS, Alvin C. Poweleit, M.D., was a devoted husband and father of three beautiful children;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the General Assembly, both individually and collectively, do hereby posthumously proclaim Alvin C. Poweleit, M.D., to have been an outstanding Kentuckian and exemplary representative of the Commonwealth.

Section 2. The Transportation Cabinet is directed to name the bridges on Interstate 275 in Kenton County over the Licking River at the Campbell County line in the westbound and eastbound lanes, identified as Bridge Numbers B00052 and B00052P, "The Alvin C. Poweleit, M.D., Memorial Bridge."

Section 3. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs at each bridge approach to the bridges identified in Section 2 of this Resolution that read "The Alvin C. Poweleit, M.D., Memorial Bridge."

SJR 24, A JOINT RESOLUTION naming the "Robert M. Collins Highway" in Letcher County.

WHEREAS, Robert Collins was born in 1914 in Letcher County, Kentucky, the son of Ira and Eliza Bates Collins; and

WHEREAS, Robert Collins graduated from the Pine Mountain Settlement School; and

WHEREAS, Robert Collins served his country with honor in Burma, China, and India during World War II; and

WHEREAS, Robert Collins served one term in the Kentucky House of Representatives, representing Letcher County from 1948 to 1950, serving on the Committees on Cities of the Sixth Class, Compensation for Industrial Injuries, and Mines and Mining, and also served one term as Letcher County sheriff; and

WHEREAS, Robert Collins served three terms as Letcher County Judge, serving in parts of the 1950s, the 1960s, the 1970s, and the 1980s, retiring in 1981 ; and

WHEREAS, Robert Collins is the loving husband of Jean Cupps Collins, the proud father of two daughters, Darlene Spears and Denise Hughes, and the doting grandfather of three grandsons; and

WHEREAS, it is fitting and proper that Robert Collins receive recognition for his lifetime of achievement and service to the people of Letcher County;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name United States Route 23 in Letcher County from the Pike County border to the Virginia state line the "Robert M. Collins Highway."

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs on the road specified in Section 1 of this Act that read "Robert M. Collins Highway."

The Committee Substitute to **SJR 24** is as follows:

SJR 24, A JOINT RESOLUTION naming the "Robert B. Collins Highway" in Letcher County.

WHEREAS, Robert Collins was born in 1914 in Letcher County, Kentucky, the son of Ira and Eliza Bates Collins; and

WHEREAS, Robert Collins graduated from the Pine Mountain Settlement School; and

WHEREAS, Robert Collins served his country with honor in Burma, China, and India during World War II; and

WHEREAS, Robert Collins served one term in the Kentucky House of Representatives, representing Letcher County from 1948 to 1950, serving on the Committees on Cities of the Sixth Class, Compensation for Industrial Injuries, and Mines and Mining, and also served one term as Letcher County sheriff; and

WHEREAS, Robert Collins served three terms as Letcher County Judge, serving in parts of the 1950s, the 1960s, the 1970s, and the 1980s, retiring in 1981 ; and

WHEREAS, Robert Collins is the loving husband of Jean Cupps Collins, the proud father of two daughters, Darlene Spears and Denise Hughes, and the doting grandfather of three grandsons; and

WHEREAS, it is fitting and proper that Robert Collins receive recognition for his lifetime of achievement and service to the people of Letcher County;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name the bridge over Elkhorn Creek, bridge number B00025, located 1.3 miles southwest of the Pike County line on United States Route 23 in Letcher County the "Robert B. Collins Bridge."

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs on the bridge specified in Section 1 of this Act that read "Robert B. Collins Bridge."

The Committee Amendment No. 1 Title to **SJR 24** is as follows:

On page 1, amend the title to read as follows:

"A JOINT RESOLUTION naming the "Robert B. Collins Bridge" in Letcher County.".

SJR 42, A JOINT RESOLUTION naming "The Lynn Dawson Bridge" in Logan County.

WHEREAS, Lynn Dawson is the son of Amanda Sydnor Dawson and the late Denton C. Dawson; and

WHEREAS, born on February 22, 1941, Lynn Dawson is the devoted husband of Martha Jo Fowler Dawson and is the proud father of Joseph Lynn Dawson and grandfather of Caleb Wayne Dawson; and

WHEREAS, a farmer by profession, Lynn Dawson has been very active as a member of the local Farm Bureau and served as Fire Chief for the Olmstead Volunteer Fire Department; and

WHEREAS, Lynn Dawson was a dedicated member of the Logan County Board of Education for twenty-four years who proudly held a perfect record for attendance at both regularly scheduled and special called meetings of the board; and

WHEREAS, Lynn Dawson proudly served as Vice-Chair of the Board for twelve years and Chair of the Board for eight years; and

WHEREAS, Lynn Dawson's stewardship on the Board of Education resulted in the consolidation of five small deteriorating high schools into Logan County High School which currently serves almost 1,000 students; and

WHEREAS, Lynn Dawson led the Board of Education into approving a Freshman Academy scheduled to open for the 2003 school year where ninth grade students will receive core classes, individual guidance, and other services as they are acclimated to secondary classes; and

WHEREAS, during Lynn Dawson's tenure the Local County School System has replaced all five K-8 centers; has constructed a six-bay bus garage, a new district board office, and a greenhouse; and has made many improvements to the outside facilities at all of the school centers; and

WHEREAS, Lynn Dawson's passion for excellence for the children of Logan County caused him to attend many meetings at the local, regional, and state level that were in addition to his duties as a member of the Board of Education; and

WHEREAS, Lynn Dawson served as Chair of the regional Kentucky School Board Association from 1997 until 1999, and during that same time period he was appointed to the Commissioner's Advisory Council;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name the bridge located on Kentucky Route 775 over Whipperwill Creek in Logan County "The Lynn Dawson Bridge."

Section 2. The Transportation Cabinet shall, within thirty (30) days of the effective date of this Resolution, erect signs at each approach to the bridge located on Kentucky Route 775 over Whipperwill Creek in Logan County that read "The Lynn Dawson Bridge."

The Committee on Economic Development reported **HB 810** and **HCR 199,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 810, AN ACT relating to the Commission on Small Business Advocacy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.200 is amended to read as follows:

(1) There is created the Commission on Small Business Advocacy. The commission shall be a separate administrative body of state government within the meaning of KRS 12.010(8).

(2) It shall be the purpose of the Commission on Small Business Advocacy to:

- (a) Address matters of small business as it relates to government affairs;
- (b) Promote a cooperative and constructive relationship between state agencies and the small business community to ensure coordination and implementation of statewide strategies that benefit small business in the Commonwealth;
- (c) Coordinate and educate the small business community of federal, state, and local government initiatives of value and importance to the small business community;

(d) Create a process by which the small business community is consulted in the development of public policy as it affects their industry sector;

(e) Aid the small business community in navigating the regulatory process, when that process becomes cumbersome, time consuming, and bewildering to the small business community; and

(f) Advocate for the small business, as necessary when regulatory implementation is overly burdensome, costly, and harmful to the success and growth of small businesses in the Commonwealth.

(3) The Commission on Small Business Advocacy shall consist of ***thirty-one (31)***[~~twenty-seven (27)~~] members:

(a) The Governor, or the Governor's designee;

(b) The secretaries of the following cabinets, or their designees:

1. Economic Development;
2. Natural Resources and Environmental Protection;
3. Revenue; and
4. Transportation;

(c) The state director of the Small Business Development Centers in Kentucky;

(d) One (1) representative of each of the following organizations, appointed by the Governor from a list of three (3) nominees submitted by the governing bodies of each organization:

1. Associated Industries of Kentucky;
2. National Federation of Independent Business;
3. Kentucky Chamber of Commerce;
4. Kentucky Federation of Business and Professional Women's Club, Inc.***;***
5. Kentucky Retail Federation;
6. Professional Women's Forum;
7. Kentuckiana Minority Supplier Development Council;
8. Greater Lexington Chamber of Commerce***;***
9. Lexington chapter of the National Association of Women Business Owners;
10. Greater Louisville, Inc.;
11. Louisville chapter of the National Association of Women Business Owners;
12. Northern Kentucky Chamber of Commerce, Inc.;
13. Northern Kentucky - Greater Cincinnati chapter of the National Association of Women Business Owners;[~~ and~~]
14. ***Kentucky Association of Realtors***[~~Bowling Green chapter of the National Association of Women Business Owners~~];
15. Henderson - Henderson County Chamber of Commerce;
16. ***Kentucky Coal Council;***
17. ***Kentucky Farm Bureau Federation; and***
18. ***Kentucky Homebuilders Association;***

(e) One (1) representative from small business from each of the following areas, appointed by the Governor:

1. A city of the second class;
2. A city of the third class;
3. A city of the fourth class; and
4. A city of the fifth class;[~~ and~~]

(f) One (1) representative who is a small business owner served by each of the following organizations, appointed by the Governor:

1. The Center for Rural Development; and
2. Community Ventures Corporation***; and***

(g) One (1) representative who is a small business owner under the age of thirty-five (35), appointed by the Governor.

(4) The terms of all members appointed by the Governor shall be for four (4) years, except that the original appointments shall be staggered so that seven (7) appointments shall expire at two (2) years, seven (7) appointments shall expire at three (3) years, and seven (7) appointments shall expire at four (4) years from the dates of initial appointment.

(5) The Governor shall appoint the chair and vice chair of the commission from the list of appointed members.

(6) The commission shall meet quarterly and at other times upon call of the chair or a majority of the commission.

(7) A quorum shall be a majority of the membership of the commission.

(8) Members of the commission shall serve without compensation but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the commission, subject to Finance and Administration Cabinet administrative regulations.

(9) There shall be an executive director, who shall be the administrative head and chief executive officer of the commission, recommended by the commission and appointed by the Governor. The executive director shall have authority to hire staff, contract for services, expend funds, and operate the normal business activities of the commission.

(10) The Commission on Small Business Advocacy shall be an independent agency attached to the Office of the Governor.

HCR 199, A CONCURRENT RESOLUTION directing a study of the Kentucky Enterprise Zone Program.

WHEREAS, the General Assembly declared that the purpose of the Enterprise Zone Program is to revitalize economically depressed areas of the state, having the goals of improving the quality of life of individuals living in the zone, providing employment opportunities, job training, and neighborhood improvements; and

WHEREAS, additionally, the General Assembly created the Kentucky Enterprise Zone Program in 1982, to encourage economic activity by existing and new businesses, and to eliminate blighted and deteriorated areas with the hope of bringing new or renewed development to targeted and economically depressed areas; and

WHEREAS, the Kentucky Enterprise Zone Program has provided to businesses, not only state and local tax incentives, but also strategic location to transportation networks, suppliers, and other city services, and provided undeveloped land suitable for industry and older buildings adaptable to modern industrial needs; and

WHEREAS, the total number of qualified businesses active in the ten designated enterprise zones is 2,503, and the number of businesses certified since the beginning of the program is 4,066, according to the annual report for the period July 1, 2000 through June 30, 2001;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to have the Interim Joint Committee on Economic Development and Tourism conduct a study of the Kentucky Enterprise Zone Program. The study shall focus upon the effectiveness of the program to achieve its stated goals and make findings as to changes needed to increase the effectiveness and efficiency of the programs and determine whether the program merits continuation beyond the statutory dates of expiration.

Section 2. The findings of the Interim Joint Committee on Economic Development and Tourism shall be presented to the Legislative Research Commission no later than October 31, 2002. Proposed legislation may be submitted to the 2003 Regular Session of the Kentucky General Assembly.

Section 3. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Agriculture and Small Business reported **HB 708,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 708, AN ACT relating to MTBE and ethanol.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 363.900 TO 363.908 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that the fuel additive methyl tertiary butyl ether, known as MTBE, as a result of leaks in underground storage tanks, has contaminated groundwater in California and other states to such an extent that it has been banned in those states. The legislature further finds that, because Kentuckians rely on groundwater to a great extend both for drinking water and for industrial and agricultural purposes, the continued use of MTBE poses an unacceptable threat to public health.

SECTION 2. A NEW SECTION OF KRS 363.900 TO 363.908 IS CREATED TO READ AS FOLLOWS:

(1) Beginning on January 1, 2005, the use of methyl tertiary butyl ether, known as MTBE, as a fuel additive shall be illegal in the Commonwealth of Kentucky. Importation, sale or storage of fuel containing MTBE shall be unlawful after that date.

(2) Beginning on January 1, 2005, any reformulated gasoline sold or offered for sale in the Commonwealth that requires an oxygenate additive shall use ethanol in place of MTBE.

The Committee Substitute to **HB 708** is as follows:

HB 708, AN ACT relating to MTBE and ethanol.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 363.900 TO 363.908 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that the fuel additive methyl tertiary butyl ether, known as MTBE, as a result of leaks in underground storage tanks, has contaminated groundwater in California and other states to such an extent that it has been banned in those states. The legislature further finds that, because Kentuckians rely on groundwater to a great extent both for drinking water and for industrial and agricultural purposes, the continued use of MTBE poses an unacceptable threat to public health.

SECTION 2. A NEW SECTION OF KRS 363.900 TO 363.908 IS CREATED TO READ AS FOLLOWS:

(1) Beginning on January 1, 2006, the use of methyl tertiary butyl ether, known as MTBE, as a fuel additive shall be illegal in the Commonwealth of Kentucky. Importation, sale or storage of fuel containing MTBE shall be unlawful after that date.

(2) Beginning on January 1, 2004, the General Assembly strongly encourages that all reformulated gasoline sold or offered for sale in the Commonwealth utilize domestically produced ethanol in place of MTBE or other gasoline additives.

(3) In order to allow for an orderly transition, trace amounts of MTBE, not to exceed one-half of one percent (0.5%) by volume, will be allowed in gasoline.

Calendar

HB 681, HB 686, HB 755, HB 829, HJR 160, HCR 177, HCR 185, HJR 186, HJR 188, SB 132, SB 147, HB 75, HB 105, HB 737, SB 176, HB 721, HB 757, HB 821, HB 743, HB 804, HB 270, HB 475, HB 652, HB 688, HJR 61, HCR 182, SB 25, and **SB 170** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Senate Message

Announcing passage of **SB 1, SB 142, SB 152, SB 178, SB 188, SB 196, SB 211, HB 62, HB 110, HB 120, HB 191,** and **HB 416**.

Message received in regard to **HB 207**: The Senate has passed **HB 207** with the following Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 244**: The Senate has passed **HB 244** with the following Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. (Time 2:10 p.m.)

Representative A. Arnold moved to suspend the rules to act on a Resolution. Agreed.

Representative A. Arnold moved the adoption of the following **HR 48**:

HR 48, A RESOLUTION adjourning the House of Representatives in loving memory and honor of David Van Horn.

With deepest respect and admiration, we pay homage and tribute to our friend and colleague, David Van Horn, and we pause in silent reverence for his soul.

WHEREAS, David Van Horn was born on December 3, 1929, a native of Mt. Sterling, Montgomery County, Kentucky, and he traversed these earthly bounds on December 31, 2001; and

WHEREAS, David Van Horn was the loving son of the late Galba David Van Horn and Eva Wheeler Van Horn, and he was the devoted father of Lee Russell Van Horn; and

WHEREAS, David Van Horn graduated from Henry Clay High School in 1948, he graduated from the University of Kentucky in 1952 and received a law degree from the University of Kentucky in 1958; and he served his country with pride and distinction in the United States Air Force during the Korean War; and

WHEREAS, David Van Horn served his constituents with pride from the old fifty-fifth legislative district from 1970 to 1974, and represented the seventy-seventh legislative district from 1978 to 1984; and during his tenure with the Kentucky General Assembly, he served as a member of the Committee on Judiciary, Committee on Highways and Traffic Safety, Committee on Business Organizations and Professions, Committee on Transportation, and the Committee on Labor and Industry; and

WHEREAS, David Van Horn was a most competent lawyer and legislator who was held in high esteem by his peers; on the House floor he opposed tax increases, raises for public officials, and increases in interest rates; he fought to remove the sales tax on food and medicine, co-sponsored anti-gun control legislation that became law, supported anti-abortion legislation, and introduced legislation to equip school buses with seatbelts; and

WHEREAS, it was David Van Horn's flamboyance in the General Assembly that led him to be voted as "most colorful" by reporters who covered the 1980 session; never at a loss for words, he entertained his colleagues with humor and wit, and his love for animals inspired him to introduce legislation in 1980 designating the coon hound as the official state dog of the Commonwealth, explaining the coon hound's intelligence, strength, good natured disposition, loyalty, and lean, efficient appearance make it a most admirable model toward which all Kentuckians may look with pride as their official canine; and he further stated that in this doggone, dog-eat-dog, dog-eared, dogged, dog-faced, dog-legged, doggish dog fight known as life seldom does so pure and uncluttered a symbol as the lovable coon hound offer itself for all to admire; and he also introduced a Resolution honoring a Lexington firefighter for giving a home to the department's aging mascot, a Dalmation named "Sparky," and a Resolution honoring the groundhog; and

WHEREAS, the passing of David Van Horn has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its profound sense of sorrow upon the passing of our colleague and friend, David Van Horn, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of David Van Horn.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. Lee Russell Van Horn, 1455 Townley Drive, Lexington, Kentucky 40511.

There being no objection **HR 48** was adopted.

The roll call was opened for co-sponsors and on the roll call the vote was: **Yeas 80**. (See March 7, 2002 roll call to show co-sponsors of **HR 48** - Appendix)

Representative Palumbo moved to suspend the rules to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions

HR 223, by Representative Palumbo: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Paul Oberst.

Representative Palumbo moved the adoption of the following **HR 223**:

HR 223, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Paul Oberst.

With deepest respect and admiration, we pay homage and tribute to Paul Oberst, and we pause in silent reverence for his soul.

WHEREAS, Paul Oberst was born on April 22, 1914, a native of Owensboro, Daviess County, Kentucky, and he traversed these earthly bounds on February 27, 2002; and

WHEREAS, Paul Oberst was the loving son of the late Albert and Marie Wittgen Oberst; he was the devoted husband of Elizabeth Durfee Oberst, and he was the loving father of four sons, Paul Oberst of Toronto, Canada, James Oberst of Lexington, George Oberst of Berea, and John Oberst of Monmouth, Oregon, and a loving daughter, Mary Oberst of Portland, Oregon; and he was the proud grandfather of eight grandchildren; and

WHEREAS, Paul Oberst graduated from the University of Evansville in Indiana, he received his bachelor of law degree from the University of Kentucky, and a master of law degree from the University of Michigan; he taught at the University of Kentucky College of Law from 1946 to 1982, and he was acting dean of the law school from 1966 to 1967; during his tenure at the University of Kentucky, he was instrumental in having University of Kentucky faculty members added to the university's board of trustees, and he also served three terms as a trustee; he was chairman of the University of Kentucky Board of Student Publications, which had jurisdiction over all campus publications, and he served several terms on the University of Kentucky faculty House of Representatives; and he was a visiting professor at law schools around the country, and he taught at a Princeton University special orientation program in American law for lawyers from other countries in 1965 and 1967; and

WHEREAS, Paul Oberst was a leader of the civil rights movement, and a champion of academic freedom; he dedicated his life to human rights, as evidenced in 1948, when he commuted to Frankfort to teach law to John Hatch, a black man barred from the University of Kentucky campus because of segregation; he was a member of the Kentucky Human Rights Commission for 22 years, and served as chairman for seven years; and he also served as chairman of the Kentucky Advisory Committee to the United

States Commission on Civil Rights, and he was one of the chief authors of Kentucky's 1966 Civil Rights Law; and

WHEREAS, Paul Oberst was honored by the Central Kentucky Civil Liberties Union in 2000 for his contributions to civil liberties in the Commonwealth; he was inducted into the Kentucky Civil Rights Hall of Fame in 2001, and he was inducted into the University of Kentucky College of Law Alumni Hall of Fame in 1997; he was the recipient of the Kentucky Chapter of the American Association of University Professors' first academic freedom award in 1976, and in 1965, he was honored by the Lexington Chapter of the National Conference of Christians and Jews with the organization's Brotherhood Award; and

WHEREAS, the passing of Paul Oberst has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Paul Oberst, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Paul Oberst.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Elizabeth Durfee Oberst, 829 Sherwood Drive, Lexington, Kentucky 40504.

There being no objection **HR 223** was adopted.

The roll call was opened for co-sponsors and on the roll call the vote was: Yeas 81. (See March 7, 2002, roll call to show co-sponsors of **HR 223** - Appendix)

Orders of the Day

HB 525 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved to withdraw the motion that **HB 525** be placed upon it's pasage. Agreed.

SB 4, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved the adoption of Floor Amendment No. 2 to **SB 4**. Agreed.

Representative Marzian moved that **SB 4**, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 7, 2002, roll call on **SB 4** - Appendix.)

SB 4, as amended, was passed and the title agreed to.

Representative Marzian moved that the vote by which **SB 4**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 61 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved that **SB 61** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 7, 2002, roll call on **SB 61** - Appendix.)

SB 61 was passed and the title agreed to.

Representative Riggs moved that the vote by which **SB 61** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 26, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved the adoption of the Committee Substitute to **SB 26**. Agreed.

Representative Stein moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **SB 26**. Agreed.

Representative Webb moved that **SB 26**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 7, 2002, roll call on **SB 26** - Appendix.)

SB 26, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Webb moved that the vote by which **SB 26**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 62, HB 110, HB 120, HB 191,** and **HB 416** has been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:45 p.m.)

Representative Stumbo moved to recommit **SB 125** to the Committee on Health and Welfare. Agreed.

Representative Stumbo moved to recommit **HB 391** to the Committee on Appropriations and Revenue. Agreed

Orders of the Day (Continued)

HB 613, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of Floor Amendment No. 1 to **HB 613**. Agreed.

Representative Damron moved that **HB 613**, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 7, 2002, roll call on **HB 613** - Appendix.)

HB 613, as amended, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 613**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 553, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 553**. Agreed.

Representative Feeley moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 553**. Agreed.

Representative Feeley moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 553**. Agreed.

Representative Burch moved that **HB 553**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 87, Nays 5**. (See March 7, 2002, roll call on **HB 553** - Appendix.)

HB 553, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 553**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 467, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of the Committee Substitute to **HB 467**. Agreed.

Representative Palumbo moved that **HB 467**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 7, 2002, roll call on **HB 467** - Appendix.)

HB 467, by way of Committee Substitute, was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 467**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 62, HB 110, HB 120, HB 191,** and **HB 416** had been delivered to the Senate and signed by the President. Delivered to the Governor on March 7, 2002, at 3:15 p.m..

Orders of the Day (Continued)

HB 126, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HB 126**. Agreed.

Representative Feeley moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 126**. Agreed.

Representative Marzian moved that **HB 126**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 1**. (See March 7, 2002, roll call on **HB 126** - Appendix.)

HB 126, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 126**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 498, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Belcher moved the adoption of the Committee Substitute to **HB 498**. Agreed.

Representative L. Belcher moved that **HB 498**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 1**. (See March 7, 2002, roll call on **HB 498** - Appendix.)

HB 498, by way of Committee Substitute, was passed and the title agreed to.

Representative L. Belcher moved that the vote by which **HB 498**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 679, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HB 679**. Agreed.

Representative Marzian moved that **HB 679**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 53, Nays 33**. (See March 7, 2002, roll call on **HB 679** - Appendix.)

HB 679, by way of Committee Substitute, was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 679**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 703 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved that **HB 703** be passed.

On the roll call the vote was: **Yeas 67, Nays 25**. (See March 7, 2002, roll call on **HB 703** - Appendix.)

HB 703 was passed and the title agreed to.

Representative Stacy moved that the vote by which **HB 703** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 731, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Lee moved the adoption of the Committee Substitute to **HB 731**. Agreed.

Representative J. Lee moved that **HB 731**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 1**. (See March 7, 2002, roll call on **HB 731** - Appendix.)

HB 731, by way of Committee Substitute, was passed and the title agreed to.

Representative J. Lee moved that the vote by which **HB 731**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 148, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Dw. Butler moved the adoption of the Committee Substitute to **HJR 148**. Agreed.

Representative Dw. Butler moved that **HJR 148**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 7, 2002, roll call on **HJR 148** - Appendix.)

HJR 148, by way of Committee Substitute, was adopted.

Representative Dw. Butler moved the adoption of Committee Amendment No. 1 Title to **HJR 148**. Agreed.

Representative Dw. Butler moved that the vote by which **HJR 148**, by way of Committee Substitute, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 159, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rader moved the adoption of the Committee Substitute to **HCR 159**. Agreed.

Representative Rader moved that **HCR 159**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 7, 2002, roll call on **HCR 159** - Appendix.)

HCR 159, by way of Committee Substitute, was adopted.

Representative Rader moved the adoption of Committee Amendment No. 1 Title to **HCR 159**. Agreed.

Representative Rader moved that the vote by which **HCR 159**, by way of Committee Substitute, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 167 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved that **HJR 167** be adopted.

On the roll call the vote was: **Yeas 99, Nays 0**. (See March 7, 2002, roll call on **HJR 167** - Appendix.)

HJR 167 was adopted.

Representative Gooch moved that the vote by which **HJR 167** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 168 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved that **HJR 168** be adopted.

On the roll call the vote was: **Yeas 99, Nays 0**. (See March 7, 2002, roll call on **HJR 168** - Appendix.)

HJR 168 was adopted.

Representative Gooch moved that the vote by which **HJR 168** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 169 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nelson moved that **HJR 169** be adopted.

On the roll call the vote was: **Yeas 99, Nays 0**. (See March 7, 2002, roll call on **HJR 169** - Appendix.)

HJR 169 was adopted.

Representative Nelson moved that the vote by which **HJR 169** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 723 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 723** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 7, 2002, roll call on **HB 723** - Appendix.)

HB 723 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 723** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 145, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Vincent moved the adoption of the Committee Substitute to **HB 145**. Agreed.

Representative Vincent moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 145**. Agreed.

Representative Vincent moved that **HB 145**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 7, 2002, roll call on **HB 145** - Appendix.)

HB 145, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Vincent moved that the vote by which **HB 145**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 728 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 728** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 7, 2002, roll call on **HB 728** - Appendix.)

HB 728 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 728** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved to waive the posting requirement on the following: **HB 507, HB 657, HB 658, HJR 87, HJR 133,** and **HJR 134**. Agreed.

Representative Stumbo moved that the rules be suspended for Introductions of Bills and Report of Committees. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 224, by Representatives Feeley, Vincent, Tapp and R. Adams: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Richard James Dake.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Small Business: **HJR 210, HB 847, HB 855**

Seniors, Military Affairs and Public Safety: **HB 769, HB 746, HB 842, HB 647, HCR 123, HB 795, HB 858**

Labor and Industry: **HB 874**

Licensing and Occupations: **HB 872, SB 139**

Motions, Petitions, and Communications (Continued)

Representative Crenshaw moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Crenshaw moved the adoption of the following **Legislative Citation No. 77**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Mrs. Charity M. Hocker and joins with Representative Jesse Crenshaw in expressing profound gratitude to this outstanding citizen for her valuable contributions to Lexington, Fayette County, the Commonwealth and our Nation. A loving mother who is devoted to her family and a faithful member of Shiloh Baptist Church where she teaches Sunday School and is a member of the choir, Mrs. Hocker has truly lived a life of charity toward all her fellow human beings. Giving generously of her time, energy and talents to others for decades, she has worked with the YWCA, Urban League Guild, NAACP, Hope Center, Swahili Elks Lodge and Alpha Kappa Alpha Sorority, Inc., to improve the lives of her fellow citizens. Active in voter registration, voter education and in support of numerous elected officials, Charity Hocker is commended for her diligent efforts to help elect mayors, council persons, judges, state representatives, state senators, governors and presidents. Whereas, the strength of our society depends on the commitment of those who are willing to give abundantly of those personal offerings that make a positive difference in the lives of others, Mrs. Charity Hocker serves as a shining example of good citizenship whose good deeds have consistently contributed to the common good. Done in Frankfort, Kentucky, this seventh day of March, in the year two thousand and two.

Legislative Citation No. 77 was adopted without objection.

Representative Gray moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Gray moved the adoption of the following **HR 206**:

HR 206, A RESOLUTION urging BellSouth to reconsider closing its Western Kentucky call center.

WHEREAS, BellSouth recently announced plans to consolidate its call centers operating in two Kentucky cities by closing its Paducah call center; and

WHEREAS, the relocation proposal constitutes a major change in the operation of BellSouth services for Kentucky citizens, businesses, and local governments, and tremendous upheaval in the lives of company employees whose livelihood and family security are threatened; and

WHEREAS, the relocation proposal removes the BellSouth call center that currently operates in Paducah and leaves the entire territory in Western Kentucky without customer service from call centers in the region; and

WHEREAS, call centers constitute the customer service network of BellSouth and include the service representatives and the sales associate representatives; and

WHEREAS, BellSouth's proposal will uproot those families that are compelled to relocate according to the company directive, and the large number of long-term employees who cannot move to follow their jobs will simply be left behind financially and emotionally; and

WHEREAS, dedicated women constitute the principal class of employees tragically affected by the relocation proposal, and traditionally they are not able to follow their jobs; and

WHEREAS, communities throughout Western Kentucky would suffer a significant reduction in anticipated revenue and serious trauma would be inflicted on the lives of decent, dedicated citizens whose well-being and that of their families would be placed in jeopardy;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives urges BellSouth to reconsider its proposed relocation of the Western Kentucky call center, given the severe economic and emotional consequences of such a move.

Section 2. A copy of this Resolution shall be sent to the Chairman and CEO of the BellSouth Corporation at 1155 Peachtree Street NE, Atlanta, GA 30309.

There being no objection **HR 206** was adopted.

Representative Marzian moved the adoption of the following **HR 222**:

HR 222, A RESOLUTION honoring the Louisville Orchestra as one of the premier symphony orchestras in the United States.

WHEREAS, on November 8, 1937, Music Director Robert Whitney conducted the first public performance of the Louisville Philharmonic Society, which officially became the Louisville Orchestra in 1949; and

WHEREAS, the Louisville Orchestra seeks to educate, enlighten, entertain, excite, and enrich listeners of all ages with its live performances across a full range of orchestral repertoire; and

WHEREAS, in the 1940s the Louisville Orchestra inaugurated the Making Music concert series, an educational program for Louisville's children, and Outdoors pops concerts, both of which continue to this day; and

WHEREAS, in 1947, the Louisville Orchestra made its first statewide appearance in the western Kentucky town of Princeton, and now tours throughout the Commonwealth every year; and

WHEREAS, as a result of performing the new, premiere work by the famous American composer William Schuman, the Louisville Orchestra was invited to perform the new work, *Judith,* at Carnegie Hall, and received a Rockefeller Foundation Grant; and

WHEREAS, the Louisville Orchestra became the first, and is still the only Orchestra in the United States with its own record label, and under its *First Edition Records* label, has become one of the most famous orchestras in the world, recording almost 400 works by over 250 composers, and performing for nearly 250,000 people during its 2001-2002 season; and

WHEREAS, under the current leadership of the internationally-renowned conductor Uriel Segal, the Louisville Orchestra in 1999 won a record sixteenth American Society of Composers, Authors, and Publishers (ASCAP) Award for the Programming of Contemporary Music; and

WHEREAS, in June 2001, the Louisville Orchestra received its seventeenth ASCAP Award, the Leonard Bernstein Award for Educational Programming, which is given to only one orchestra in North America each year; and

WHEREAS, the Louisville Orchestra continues to expand to reach new audiences through programs such as the Martin Luther King, Jr. Celebration Concert, Jazzin' to the Symphony (a partnership with Jazzercise of Louisville), and free subscriptions to children's concerts for clients at the Wayside Christian Mission, a local organization serving disadvantaged families;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky House of Representatives hereby recognizes the Louisville Orchestra as one of the premier symphony orchestras in the United States and congratulates them on their achievements.

Section 2. The Clerk of the House is directed to present a copy of this Resolution to its sponsor for presentation to the appropriate representatives of the Louisville Orchestra.

There being no objection **HR 222** was adopted.

Representative Crall moved the adoption of the following **Legislative Citation No. 76**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Stephen Joseph Westerfield upon the auspicious occasion of his retirement after thirty-three years of dedicated service rendered as a teacher in the Daviess County School System. A highly-regarded educator, Mr. Westerfield began his teaching career at Daviess County Junior High School in 1969, before moving on to the post from which he now retires at Apollo High School in 1973. Taking a two year professional leave of absence from 1983-1985, this esteemed honoree also served as the Kentucky Department of Education's Director of Instructional Support in Frankfort. Inasmuch as Stephen Joseph Westerfield has served the Daviess County School System with great integrity and has consistently demonstrated a commitment to excellence in education and a true concern for the well-being of those students entrusted to his care, this honorable body is pleased to join Representative Brian Crall, Representative Mark Treesh and Representative Rob Wilkey in expressing deep appreciation to this honored recipient for serving the community well and with exemplary dedication to the youth of this great Commonwealth and in extending to him best wishes for a productive and well-earned retirement. Done in Frankfort, Kentucky, this seventh day of March, in the year two thousand and two.

Legislative Citation No. 76 was adopted without objection.

Representative Cherry moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Cherry moved that he be recorded as voting "yea" on **HB 467, SB 4, SB 61, SB 26,** and **HB 613**. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Nesler moved that he be recorded as voting "yea" on **HR 223, HR 48, HCR 159,** and **SB 4**. Agreed.

Representative Baugh moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Baugh moved that he be recorded as voting "yea" on **HCR 159**. Agreed.

Representative Crimm moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crimm moved that he be recorded as voting "yea" on **HB 679**. Agreed.

Representative Meeks moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Meeks moved that he be recorded as voting "yea" on **SB 4**. Agreed.

Representative McKee moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative McKee moved that he be recorded as voting "nay" on **HB 523** and Floor Amendment No. 3 on **HB 188**. Agreed.

Representative McKee moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative McKee moved that he be recorded as voting "yea" on **HB 193, HB 77, HB 296, HB 589, HB 194,** Floor Amendment No. 1 on **HB 188,** and **HB 188**. Agreed.

Representative Damron moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Damron moved that he be recorded as voting "yea" on **HB 533, HB 602, HB 673, HB 583, HB 625, HB 631, HB 672, HB 705, HB 715, HB 720, HB 228, HB 626, HB 503, HB 183, HB 502, HB 529, HB 587, HB 649, HB 671,** and **HB 117**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 6 to the Committee Substitute to **HB 598**, by Representative Marcotte:

On Page 8, line 18, after "*($1,000)*", by inserting and underlining, "*. A maximum fee of five thousand dollars ($5,000) shall apply to fees charged by an area planning commission created pursuant to KRS 147.610*".

Floor Amendment No. 1 to the Committee Substitute to **HB 652**, by Representative Wilkey:

On page 1, line 7, after "*starting*" insert "*,and from continuing to operate,*".

Floor Amendment No. 1 to the Committee Substitute to **HB 571**, by Representative Lindsay:

On page 1, line 3, to delete "***or former***"; and

On page 1, line 13, to delete "***participants***" and to insert in lieu thereof "***participant's***"

On page 2, line 2, to delete "***current or former***"; and

On page 2, line 6, to delete "***or indirect***"; and

On page 2, line 7, to delete "***, or to damage or***"; and

On page 2, line 8, to delete the same; and

On page 2, line 9, to delete "***family member of such a person***"; and

On page 2, line 19, after "***decision,***" to insert "***or***"; and

On page 2, line 19, to delete "***, or***"; and

On page 2, line 20, to delete "***other action***"; and

On page 3, line 2, to delete the bracketing and strike through of "or"; and

On page 3, line 6, to delete the semicolon"***;***"; and

On page 3, lines 7 and 8, to delete all new language on that line; and

On page 3, between lines 16 and 17, to insert the following:

"***(4) In order for a person to be convicted of a violation of this section, the act against a participant in the legal process or the immediate family of a participant in the legal process shall be related to the performance of a duty or role played by the participant in the legal process.***"; and

On page 4, line 2, after "***decision,***" to insert "***or***" and to delete "***, or other action***" and, following the semicolon "***;***" to insert "***or***"; and

On page 4, line 3, to delete "***; or***"; and

On page 4, line 4, to delete all new language on that line; and

On page 4, line 5, to delete "***For purposes of this section:***"; and

On page 4, lines 6 through 9, to delete the same; and

On page 4, line 10, to delete "***(3)***"; and

On page 4, between lines 10 and 11, to insert the following:

"***(3) In order for a person to be convicted of a violation of this section, the act against a participant in the legal process or the immediate family of a participant in the legal process shall be related to the performance of a duty or role played by the participant in the legal process.***".

Floor Amendment No. 4 Title to **HB 161**, by Representative Nunn:

By amending the title to read as follows:

"AN ACT relating to electronic health networks.".

Floor Amendment No. 3 to the Committee Substitute to **HB 161**, by Representative Nunn:

On page 1, line 3, delete "***Sections 2, 3, 4, and 5***" and insert "***Sections 2, 3, 8, and 17***"; and

On page 1, line 13 by deleting "***shall***" and inserting "***may***" in lieu thereof; and

On page 1, line 14, by deleting "***Telehealth Board***" and inserting "***Kentucky e-Health and Telehealth Board***"; and

On page 1, line 17 by deleting "***shall***" and inserting "***may***" in lieu thereof; and

On page 1, line 17 by deleting "***, at a minimum,***"; and

On page 2, line 6, by deleting "***and***"; and

On page 2, line 8, by deleting the period and inserting "***; and***" in lieu thereof; and

On page 2, between lines 8 and 9, by inserting the following:

"***(f) Centralized registration for providers and payors for the purposes of participating in the telehealth network and electronic health program, and for receipt of health alert information as required by the Centers for Disease Control and Prevention, the Department for Public Health, and local health departments.***"; and

On page 2, line 12, after "***(XML)***" by inserting "***or a later version***"; and

On page 2, line 15, after "***HL7 RIM)***" by inserting "***or a later version***"; and

On page 2, line 20, after "***RT)***" by inserting "***or a later version***"; and

On page 2, line 21, after "*(LOINC)*" by inserting "***or a later version***"; and

On page 2, by deleting lines 25 to 27 in their entirety; and

On page 2, line 26 by deleting "***shall***" and inserting "***may***" in lieu thereof; and

Beginning on page 3, line 1 and continuing to page 5, line 5, delete Section 3 in its entirety; and

On page 3, insert the following on line 1 and renumber the subsequent sections accordingly:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that:

(1) The Federal Health Insurance Portability and Accountability Act (HIPAA) of 1996 requires the standardized electronic transmission of health care data and ensures the privacy and security of protected health information;

(2) Strengthening the security of protected health information is a core benefit of an electronic health network;

(3) Participating in a HIPAA compliant electronic health network would facilitate the state receiving federal matching funds at a rate up to ninety percent (90%) to upgrade the Medicaid management information system;

(4) Kentucky is a leader in medical technology and can expand its leadership role to become a national model for health information technology;

(5) The Institute of Medicine has recommended reduction of preventable medical errors as a priority for the United States and identified the use of information technology as a critical factor in this effort;

(6) The Institute of Medicine has identified the problem of unnecessary medical care and, conversely, the lack of needed care as major problems that can be addressed in part by improved use of information technology;

(7) An electronic health network would simplify administrative tasks and support evidence-based clinical decisions, thereby improving the quality of health care;

(8) Currently, there are inefficiencies in the delivery of health care that contribute to the increasing cost of health care;

(9) Potential savings could result from decreasing inefficiencies in the healthcare system;

(10) Some organizations have demonstrated savings associated with implementing electronic processing of health data;

(11) Administrative savings and improved efficiency in the delivery of health care could translate into a reduction in the growth in health care insurance premiums;

(12) Rural and innercity areas of Kentucky have limited resources to fund the development of health information technology;

(13) Some institutions and organizations have a lack of resources to participate in a statewide electronic health network;

(14) A feasibility study that considers the resources and potential funding sources for the development of health information technology in rural and innercity areas of Kentucky would be completed prior to the implementation of an electronic health network;

(15) Participation in any electronic health network would be voluntary;

(16) It is in the interest of the citizens of this Commonwealth to investigate a model that would improve the quality of health care and result in substantial savings that could be used to provide care to citizens who are not receiving the health care they need and expand care to the underinsured and uninsured; and

(17) In its fully implemented form, the Kentucky e-Health Network is envisioned to support or encourage the following types of electronic transactions or activities that would be phased in over time:

  (a) Automatic drug-drug interaction and allergy alerts;

  (b) Automatic preventive medicine alerts;

  (c) Electronic access to the results of laboratory, x-ray, or other diagnostic examinations;

  (d) Disease management;

  (e) Disease surveillance and reporting;

  (f) Educational offering for health care providers;

  (g) Links to drug formularies and cost information;

  (h) Links to evidence-based medical practice;

  (i) Links to patient educational materials;

  (j) Medical record information transfer to other providers with the patient's consent;

  (k) Physician order entry;

  (l) Prescription drug tracking;

  (m) Registries for vital statistics, cancer, case management, immunizations, and other public health registries;

  (n) Secured electronic consultations between providers and patients;

  (o) Single source insurance credentialing system for health care providers; and

(p) The following transactions covered by HIPAA:

  1. Health care claims or equivalent encounter information;

  2. Health care payment and remittance advice;

  3. Coordination of benefits;

  4. Health care claim status;

  5. Enrollment and disenrollment in a health plan;

  6. Eligibility for a health plan;

  7. Health plan premium payments;

  8. Referral certification and authorization;

  9. First report of injury; and

  10. Health claims attachments.

SECTION 4. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

As used in Sections 3 to 6 and 7 of this Act:

(1) "Board" means the Kentucky e-Health and Telehealth Board;

(2) "Insurer" has the same meaning as provided in KRS 304.17A-005;

(3) "Electronic health network" means a network that allows for secure exchange of needed information among authorized health care providers, third party payors, and patients, with information being exchanged in real-time when feasible;

(4) "Health care provider" has the same meaning as provided in KRS 311.621;

(5) "HIPAA" means the Federal Health Insurance Portability and Accountability Act of 1996; and

(6) "Ke-HN" means the Kentucky e-Health Network.

SECTION 5. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) The duties and responsibilities of the board shall be to study the feasibility of implementing an electronic health network in this Commonwealth using federal and voluntarily contributed private funds, and, if the board deems a model to be feasible and the General Assembly concurs, oversee the implementation of a model, to be known as the Ke-HN.

(2) The board shall:

  (a) Exercise all of the administrative functions of the board;

  (b) Appoint an advisory group that shall meet at least quarterly for the purpose of collaborating with health care providers and payors, computer technology companies, telecommunication companies, and other affected entities to ensure input into the evaluation and choice of the model selected for implementation;

  (c) Review models for an electronic health network;

  (d) Oversee the development of comparative business cases for the models reviewed and, if feasible, choose a model to be implemented in this Commonwealth upon concurrence of the General Assembly. The feasibility study shall include the following elements:

    1. Consideration of various models and configurations for Ke-HN, as either developed from the board's research or as recommended by public and private experts. Each model or configuration shall be capable of supporting administrative and clinical functions listed in Section 3 of this Act, including the capability to integrate an electronic Medicaid management information system. At least one (1) model shall provide for the implementation of Ke-HN in phases, as determined by the board;

    2. Projected costs of the network, indicating those which would be allocated to state government, health care providers, insurers, or others;

    3. A business case which includes options for financing the start-up, administrative, and maintenance costs, projected returns on investments, a timetable for realizing those returns, and any proposed subscription or transactions fees associated with the Ke-HN;

    4. Procedures intended to secure protected health information in accordance with HIPAA;

    5. Timetables for implementation of the Ke-HN, whether as a fully established network, in phases, or through the use of a pilot project or regional approach to the Ke-HN;

    6. Suggested incentives to promote the use of Ke-HN by health care providers and payors, and the Medicaid program; and

    7. Incentives, including but not limited to tax credits, low-interest loans, and grants, under Subchapters 22, 23, 24, 26, and 28 of KRS Chapter 154 for a company that develops or manufactures software necessary for the development of the Ke-HN, provided the company meets all the eligibility requirements under the respective subchapter in KRS Chapter 154;

(e) Receive comments from the advisory group created in paragraph (b) of this subsection and the public prior to choosing a model;

(f) Submit, immediately upon completion of the study, the results of the feasibility study and a description of the model chosen to the Legislative Research Commission for the opportunity for any comments;

(g) If state funds are required for implementation of the model chosen, seek funding through the appropriations process;

(h) If a model is deemed to be feasible by the board based on the business case, and the General Assembly concurs, oversee the implementation of the model chosen. Oversight shall include the following:

1. Developing any central interchange, including any central server and software;

2. Developing the Ke-HN of providers and payors who participate in the network, which shall be on a voluntary basis;

3. Making recommendations regarding the features and functions which shall be included in the distributed components of the network; and

4. Performing outcomes assessment of the benefits achieved by the network;

(i) Identify and adopt standards for all computer systems communicating with the Ke-HN, including but not limited to:

1. The HIPAA standards for electronic transactions as the federal regulations become final or more stringent standards for content and networking as determined by the board;

2. Medical lexicon for administrative billing and clinical purposes;

3. Procedure and billing codes; and

4. Prevalent health care industry standards for software and networking that ensure that applications work on all types of computer systems and equipment;

(j) Establish procedures to assure that Ke-HN transactions are in compliance with HIPAA guidelines;

(k) Facilitate the implementation of the federal HIPAA guidelines, and identify any additional variables specific to Kentucky that are required to be in transactions within the HIPAA guidelines;

(l) Oversee the operations of the Ke-HN, including but not limited to making recommendations for financing the central interchange for the network and making recommendations to organizations about implementing the network in their respective organization;

(m) Oversee the development of the central interchange that supports communication between components of the Medicaid management information system;

(n) Implement educational efforts about the Ke-HN;

(o) Develop incentives for providers and payors to use the Ke-HN;

(p) Identify options for, adopt, and implement approaches to various aspects of the Ke-HN necessary for its creation and operation, including but not limited to technology architecture, governance and oversight, development and implementation plans, and other areas identified by the board relating to its charge;

(q) Facilitate the development of private and public partnerships to build the Ke-HN;

(r) Promulgate administrative regulations in accordance with KRS Chapter 13A necessary to carry out the responsibilities of the board;

(s) Receive and dispense funds appropriated for its use by the General Assembly or may solicit, apply for, and receive any funds, property, or services from any person, governmental agency, or organization to carry out its statutory responsibilities;

(t) Report to the Governor, secretary of the Cabinet for Health Services, commissioner of the Office for the New Economy, Legislative Research Commission, Interim Joint Committee on Health and Welfare, and Interim Joint Committee on Banking and Insurance annually on the development of the Ke-HN and the impact on quality and cost of health care; and

(u) Carry out the responsibilities of the board included in subsections (17) to (19) of Section 7 of this Act that relate to the telehealth network.

(3) The board may:

(a) Use any software program or expand any Medicaid management information system or electronic provider and payor network developed by the Medicaid program to support electronic health transactions between non-Medicaid payors, insurers, health care providers, and patients, unless prohibited by federal law or regulation;

(b) Contract, in accordance with KRS Chapter 45A, with an independent third party for any service necessary to carry out the responsibilities of the board; and

(c) Award grants to health care providers and payors to implement projects related to health informatics, with highest priority given to health care providers and payors that serve rural and innercity areas of this

Commonwealth.

(4) Any raw data collected from any entity as a part of the feasibility study shall remain confidential and shall be reported only in an anonymous manner in aggregate form. Any raw data shall be disposed of in a manner in accordance with any agreement between the board or any of its contractors and the entity providing the data.

SECTION 6. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) There is established and created in the State Treasury a fund entitled the "Ke-HN and Telehealth fund." The fund may receive:

- *(a) State appropriations;*
- *(b) Gifts;*
- *(c) Grants;*
- *(d) Revolving funds;*
- *(e) Transaction, service, or other fees set by the board;*
- *(f) Federal funds; and*
- *(g) Any other public and private funds.*

(2) Moneys deposited in the Ke-HN and Telehealth fund shall be disbursed by the State Treasurer upon the warrant of the board. This fund shall be used solely for purposes related to the Ke-HN and telehealth as approved by the board. The fund shall not lapse, and funds not expended during any fiscal year shall carry forward to the next fiscal year.

Section 7. KRS 11.550 is amended to read as follows:

(1) The *Kentucky e-Health and* Telehealth Board is created and placed for administrative purposes under the Governor's Office for Technology.~~[This nine (9) member board shall consist of the:~~

- ~~(a) Chancellor, or a designee, of the medical school at the University of Kentucky;~~
- ~~(b) Chancellor, or a designee, of the medical school at the University of Louisville;~~
- ~~(c) Commissioner, or a designee, of the Department for Public Health;~~
- ~~(d) Chief information officer, or a designee, of the Governor's Office for Technology; and~~
- ~~(e) Five (5) members at large, appointed by the Governor, who are health professionals or third parties as those terms are defined in KRS 205.510. To ensure representation of both groups, no more than three (3) health professionals or two (2) third parties shall be members of the board at the same time. These members shall serve a term of four (4) years, may serve no more than two (2) consecutive terms, and shall be reimbursed for their costs associated with attending board meetings.]~~

(2) *The board shall consist of the following voting members:*

- *(a) President, or a designee, of the University of Kentucky, who shall serve as co-chair of the board;*
- *(b) President, or a designee, of the University of Louisville, who shall serve as co-chair of the board;*
- *(c) Commissioner, or a designee, of the Department for Public Health;*
- *(d) Commissioner, or a designee, of the Department for Medicaid Services;*
- *(e) Chief information officer, or a designee, of the Governor's Office for Technology; and*
- *(f) Nine (9) at-large members appointed by the Governor as follows:*
  - *1. One (1) member engaged in the business of large scale e-strategy and computer information technology;*
  - *2. One (1) member engaged in the business of health insurance who is recommended by the Kentucky Association of Health Plans, Incorporated;*
  - *3. Two (2) members from a list of four (4) individuals recommended by the Kentucky Hospital Association, one (1) representing rural hospitals, and one (1) representing urban hospitals;*
  - *4. Two (2) physicians actively engaged in the practice of medicine in this Commonwealth from a list of four (4) physicians recommended by the Kentucky Medical Association or self-nominated;*
  - *5. One (1) member from a company with at least one thousand (1,000) employees selected from a list of four (4) individuals submitted by the Associated Industries of Kentucky;*
  - *6. One (1) member with experience as a physician practice manager; and*
  - *7. One (1) member at large.*

(3) The board shall consist of the following nonvoting members:

- *(a) Commissioner, or a designee, of the Office for the New Economy;*
- *(b) Secretary, or a designee, of the Personnel Cabinet;*
- *(c) Secretary, or a designee, of the Cabinet for Health Services;*
- *(d) Commissioner, or a designee, of the Department of Insurance;*

(e) One (1) member of the Senate who is a member of the Interim Joint Committee on Health and Welfare Committee, appointed by the President of the Senate; and

(f) Two (2) members of the House of Representatives who are members of the Interim Joint Committee on Health and Welfare Committee, appointed by the Speaker of the House.

(4) The initial members of the board shall be appointed within ten (10) business days after the effective date of this Act.

(5) Members of the board shall serve a term of four (4) years and may serve two (2) consecutive terms.

(6) At the end of a term, a member of the board shall continue to serve until a successor is appointed. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed. A member of the board who serves two (2) consecutive full four (4) year terms shall not be reappointed for four (4) years after completion of those terms. Members designated in paragraphs (a) to (e) of subsection (2) of this section and members designated in subsection (3) of this section shall serve on the board only while holding their respective titles.

(7) A majority of the full membership of the board shall constitute a quorum.

(8) The board may employ staff or contract with consultants necessary for the performance of the duties of the board.

(9) No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.

(10) Members of the board and all committees, except the advisory group created in subsection (2) of Section 5 of this Act, shall be entitled to reimbursement for actual and necessary expenses when carrying out official duties of the board in accordance with state administrative regulations relating to travel reimbursements. The board shall meet at least six (6) times each year.

(11) The board shall appoint committees or subcommittees with the charge of investigating and making recommendations to the board on specific aspects of the Ke-HN, including but not limited to telehealth, evidence-based clinical decision support, security of protected information, electronic data interchange, and clinical practice software packages, including the feasibility of developing a software purchasing alliance to decrease the cost of software and tax incentives to encourage members of the network to purchase software deemed by the board to meet the standards under Section 5 of this Act. The board shall, at least, appoint the following committees:

(a) Clinical Decision Support Committee;

(b) Privacy and Security of Protected Health Information Committee;

(c) Electronic Data Interchange Committee; and

(d) Clinical Software Review Committee.

(12) The members of committees or subcommittees appointed by the board do not need to be members of the board. The chair of committees or subcommittees shall be appointed by the board. The frequency of committee or subcommittee meetings shall be established by the board.

(13) The Clinical Decision Support Committee membership shall include at least the following members:

(a) One (1) physician with expertise in health informatics;

(b) Two (2) physicians actively engaged in the practice of medicine in this Commonwealth from a list of four (4) physicians recommended by the Kentucky Medical Association or self-nominated;

(c) One (1) representative of a rural hospital and one (1) representative of an urban hospital;

(d) One (1) pharmacist;

(e) One (1) representative engaged in the business of health care information technology;

(f) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multi-physician practice; and

(g) One (1) member engaged in the business of health insurance who is recommended by the Kentucky Association of Health Plans, Incorporated.

(14) The Privacy and Security of Protected Health Information Committee shall include at least the following members:

(a) One (1) physician actively engaged in the practice of medicine in this Commonwealth;

(b) Two (2) members with expertise in HIPAA regulations;

(c) Two (2) members engaged in the business of large scale e-strategy and computer information technology;

(d) One (1) member who serves as a computer information officer within the health care industry;

(e) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multi-physician practice;

(f) One (1) member engaged in the business of health insurance who is recommended by the Kentucky Association of Health Plans, Incorporated; and

(g) One (1) representative of a hospital.

(15) The Electronic Data Interchange Committee shall include at least the following members:

(a) Two (2) members engaged in the business of large scale e-strategy and computer information technology;

(b) Two (2) members engaged in the business of health insurance who are recommended by the Kentucky Association of Health Plans, Incorporated;

(c) Chief information officer, or a designee, of the Cabinet for Health Services;

(d) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multi-physician-physician practice; and

(e) One (1) representative of a hospital.

(16) The Clinical Software Review Committee shall include at least the following members:

(a) One (1) member from a company that develops computer software for physician practices;

(b) One (1) member engaged in the business of large scale e-strategy and computer information technology;

(c) Three (3) physicians, with one (1) having experience in electronic information technology;

(d) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multi-physician practice;

(e) One (1) member engaged in the business of health insurance who is recommended by the Kentucky Association of Health Plans, Incorporated; and

(f) One (1) representative of a hospital[~~The members shall elect a chair and hold bimonthly meetings or as often as necessary for the conduct of the board's business~~].

(17)[~~(3)~~] The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

(a) Establish telehealth training centers at the University of Kentucky, University of Louisville, the pediatric-affiliated hospitals at the University of Kentucky and the University of Louisville, and one (1) each in western Kentucky and eastern Kentucky, with the sites to be determined by the board;

(b) Develop a telehealth network, to coordinate with the training centers, of no more than twenty-five (25) rural sites, to be established based on the availability of funding and in accordance with criteria set by the board. In addition to these rural sites, the board may identify, for participation in the telehealth network, ten (10) local health departments, five (5) of which shall be administered by the University of Kentucky and five (5) of which shall be administered by the University of Louisville, and any other site that is operating as a telemedicine or telehealth site and that demonstrates its capability to follow the board's protocols and standards;

(c) Establish protocols and standards to be followed by the *telehealth* training centers and rural sites; [~~and~~]

(d) Maintain the central link for the *telehealth* network with the Kentucky information highway *(Commonwealth of Kentucky's intranet), and the Internet; and*

(e) Establish procedures for centralized registration or other business or clinical applications associated with the centralized registry created under Section 2 of this Act.

(18) The board may determine the telehealth functions and the minimum data set to be included in the telehealth application and centralized common registry created under Section 2 of this Act.

(19)[~~(4)~~] The board shall, following consultation with the Governor's Office for Technology, recommend the processes and procedures for the switching and running of the telehealth network.

(20)[~~(5)~~] The University of Kentucky and the University of Louisville shall report semiannually to the Interim Joint Committee on Health and Welfare on the following areas *related to telehealth,* as specified by the board through an administrative regulation promulgated in accordance with KRS Chapter 13A.

(a) Data on utilization, performance, and quality of care;

(b) Quality assurance measures, including monitoring systems;

(c) The economic impact on and benefits to participating local communities; [~~and~~]

(d) *Data collected by the registry created under Section 2 of this Act; and*

(e) Other matters related to telehealth at the discretion of the board.

[~~(6) The board shall receive and dispense funds appropriated for its use by the General Assembly or obtained through any other gift or grant.~~]"; and

On page 5, insert the following between lines 15 and 16 and renumber the subsequent sections accordingly:

"Section 9. KRS 164.6015 is amended to read as follows:

(1) There is established the Kentucky Innovation Commission, as an independent advisory commission, consisting of fifteen (15) members as follows:

(a) The Governor or designee;

(b) The secretary of the Governor's Executive Cabinet or designee;

(c) The secretary of the Cabinet for Economic Development or designee;

(d) The president of the Council on Postsecondary Education or designee;

(e) The state budget director or designee;

(f) The Speaker of the House or designee;

(g) The President of the Senate or designee; and

(h) Eight (8) at-large members appointed by the Governor as follows:

1. Four (4) members of the private sector possessing extensive experience and expertise relating to managing a high-technology business or engaging in an innovation-driven, knowledge-based enterprise;

2. One (1) member engaged in the business of venture capital;

3. One (1) member of the private sector possessing extensive experience and expertise relating to providing or supporting communications infrastructure; and

4. Two (2) members who are engineers or scientists recognized for their scientific or technological research efforts, or educators with an interest or background in teaching students to become highly skilled workers or entrepreneurs.

(2) The eight (8) at-large members shall serve terms of four (4) years, except that the original appointments shall be staggered so that two (2) appointments shall expire at two (2) years, three (3) appointments shall expire at three (3) years, and three (3) appointments shall expire at four (4) years from the dates of initial appointment.

(3) The commission shall meet quarterly and at other times upon call by the chair.

(4) Eight (8) members shall constitute a quorum for conducting business.

(5) Members shall receive no compensation except that the at-large members shall be reimbursed for actual and necessary travel expenses for attending meetings and performing other official functions, consistent with state reimbursement policy for state employees.

(6) Vacancies shall be filled in the same manner as the original appointment.

(7) The chair and vice chair of the commission shall be appointed by the Governor from the private sector membership.

(8) The commission shall provide ongoing advice, direction, and policy recommendations to the Governor and the General Assembly relating to the status of Kentucky knowledge-driven businesses, research and development initiatives, and related high-skill training and education in the Commonwealth.

(9) The duties and responsibilities of the commission shall be to:

(a) Promote the cooperation of private and public entities that have the purpose and duty of advancing the knowledge-based economy in the Commonwealth through technological innovation and knowledge transfer;

(b) Consider performance indicators recommended by public and private experts in and outside of the state in the fields of research and development and economic development, for the purpose of recommending benchmarks. Experts in this state shall include, but not be limited to, representatives from the universities undertaking research and development activities, representatives of the Kentucky Science and Technology Corporation, representatives of targeted technology sectors, representatives of the Cabinet for Economic Development, and representatives of other state agencies having economic development and information technology responsibilities. Outside state experts shall include nationally recognized independent reviewers to assess the competitiveness of technology sectors in this state and the impact of research and development activities on economic development in the Commonwealth. Quantitative and qualitative indicators may include, but are not limited to, the following:

1. Kentucky companies modernizing to become more technologically innovative and globally competitive;

2. Research and development initiatives undertaken at Kentucky universities with federal, state, or private funds;

3. Educational attainment in areas that support the workforce needs of information technology and high-growth knowledge industries;

4. High-technology sectors and companies moving to and operating in the state;

5. Patents filed for technology or knowledge-based commercial products, processes, or services;

6. Businesses using electronic commerce and the communications infrastructure access capacity for Kentucky businesses; and

7. Growth in corporate headquarters, research and development centers, high-income employees, and clustering of related technology industries and suppliers;

(c) Operate as a common strategic umbrella to advocate for the use of federal, state, local government, and private sector funds to create research and development projects, modernize manufacturing facilities, and promote knowledge-based, technology sectors and companies in the Commonwealth;[~~ and~~]

(d) Report to the Governor and to the General Assembly annually on performance indicators, recommending benchmarks for measuring progress toward the advancement of the knowledge-based economy, technological innovation, and knowledge transfer, and reporting on the programs and initiatives set forth in KRS 164.6019 to 164.6043 and KRS 154.12-270, 154.12-274, and 154.12-278***; and***

(e) Promote the cooperation of private and public entities to advance and fund health information technology in this Commonwealth.

(10) The support staff for the commission shall be from the office of the state budget director.

Section 10. KRS 164.6021 is amended to read as follows:

(1) There is created and established in the Council on Postsecondary Education a Kentucky Research and Development Voucher Program to provide vouchers to small and medium-size, Kentucky-based companies to undertake research and development work in partnership with universities in the Commonwealth.

(2) The purpose of the Kentucky Research and Development Voucher Program is to:

(a) Accelerate knowledge transfer and technological innovation, improve economic competitiveness, and spur economic growth in Kentucky-based companies;

(b) Support research and development activities that have clear potential to lead to commercially successful products, processes, or services within a reasonable period of time;

(c) Stimulate growth-oriented enterprises within the Commonwealth;

(d) Encourage partnerships and collaborative projects between private enterprises, Kentucky's universities, and research organizations;[~~ and~~]

(e) Promote research and development activities that are market-oriented***; and***

(f) Promote the research and development and assist with funding of health information technology in this Commonwealth.

Section 11. KRS 164.6029 is amended to read as follows:

(1) There is created and established in the Council on Postsecondary Education a Kentucky Rural Innovation Program to provide vouchers to rural Kentucky-based, small companies to undertake research, development, and entrepreneurial innovation work in partnership with Kentucky postsecondary institutions, the Small Business Development Center Network in Kentucky, and other entities engaged in research and development work.

(2) The purpose of the Kentucky Rural Innovation Program is to:

(a) Accelerate knowledge transfer and technological innovation that improve economic competitiveness and spur economic growth in rural, Kentucky-based, small companies;

(b) Support entrepreneurial activities that have clear potential to lead to commercially successful products, processes, or services within a reasonable period of time;

(c) Stimulate growth-oriented enterprises within the Commonwealth;

(d) Encourage partnerships and collaborative projects between private enterprises, Kentucky's postsecondary institutions, research organizations, and the Small Business Development Center Network in Kentucky;[~~ and~~]

(e) Promote research, development, and entrepreneurial activities that are driven by private sector requirements***; and***

(f) Promote the research and development and assist with funding of health information technology in this Commonwealth.

Section 12. KRS 164.6037 is amended to read as follows:

(1) There is created and established in the Council on Postsecondary Education a Kentucky Commercialization Fund Program to provide seed funding as defined in KRS 164.6011, for the development of promising technologies emerging from Kentucky's universities.

(2) The purposes of the Kentucky Commercialization Fund Program are to:

(a) Accelerate knowledge transfer and technological innovation, improve economic competitiveness, and spur economic growth in Kentucky-based companies;

(b) Provide seed funding for promising technologies developed in Kentucky's universities;

(c) Support promising technologies with commercial potential that are in their early stages of development;

(d) Promote technologies and resources offered by Kentucky's postsecondary institutions to private enterprises;[~~ and~~]

(e) Support the formation and organization of private enterprise that advances commercial applications based on a university's research and development work***; and***

(f) Promote the research and development and assist with funding of health information technology in this Commonwealth.

Section 13. KRS 154.12-270 is amended to read as follows:

(1) As used in this section, "cluster" and "knowledge-based" shall have the same meaning as in KRS 164.6011.

(2) In an attempt to accomplish the mission of the Commonwealth's economic development system in KRS 154.01-020 and

the purpose of the Kentucky Economic Development Partnership in KRS 154.10-010, the Cabinet for Economic Development shall undertake a strategic technology capacity initiative.

(3) The purposes of the strategic technology capacity initiative within the Cabinet for Economic Development shall be to:

(a) Focus on the recruitment of research and development companies, organizational units, projects, and activities in the Commonwealth;

(b) Attract high-technology and research and development centers into Kentucky and support the growth and creation of high-technology, innovative companies from within the Commonwealth;~~[and]~~

(c) Build and promote the networks of technology-driven and research-intensive industries with their related suppliers, with the goal of creating clusters of innovation-driven industries in Kentucky***; and***

(d) Promote the growth and creation of companies that produce high-technology products for the health industry in this Commonwealth.

(4) In implementing the strategic technology capacity initiative, the Cabinet for Economic Development shall undertake a study that includes the following:

(a) An analysis to determine those knowledge-based industry sectors that would be best identified as appropriate targets for economic development recruitment;

(b) An analysis of supplier chains to the identified industry sectors that would support and enhance the presence of technology-driven industries; and

(c) A review and detailed survey of the financial needs of those targeted technology-driven industries to determine what changes may be needed in the state's incentive programs and other state support services to industry.

(5) The strategic technology capacity initiative shall utilize the assistance of various departments and functions within the Cabinet for Economic Development, other state government agencies, and other academic and technology-oriented entities to achieve the purposes under subsection (3) of this section.

(6) The Cabinet for Economic Development may enter into contracts or agreements with other private or public entities to study the capacity to attract high-technology and innovative companies and research and development centers to Kentucky and to assist in addressing the unique recruiting issues surrounding attracting these industries.

(7) The Cabinet for Economic Development shall provide to the Kentucky Innovation Commission a report of its strategic technology capacity initiative annually and the results of its study as required in subsection (4) of this section, and shall provide to the Kentucky Innovation Commission additional information and assistance in the completion of its work as required in KRS 164.6015(9)(b).

Section 14. KRS 154.12-274 is amended to read as follows:

(1) As used in this section, "cluster" shall have the same meaning as in KRS 164.6011.

(2) It is the intention of the General Assembly to recognize that a strong manufacturing base for the economy of the Commonwealth requires not only modernization of the production process but also an increase in the number of products developed, so that through the creation of new product lines, additional value-added products, and new manufacturing methods the economy will grow and quality job opportunities will increase. The Cabinet for Economic Development shall support this intention through its authority in KRS 154.12-050 and through its strategic technology capacity initiative in KRS 154.12-270.

(3) The Cabinet for Economic Development shall enter into contracts or agreements with the Kentucky Technology Service, Inc., a nonprofit organization with the mission to assist Kentucky small and medium-size manufacturers to become more competitive in the global marketplace. The contracts or agreements shall require the Kentucky Technology Service, Inc., to undertake the following activities:

(a) Negotiate contractual agreements with existing manufacturers to deliver modernization services that are likely to lead to the creation of new product lines, additional value-added products, and new manufacturing methods;

(b) Deliver engineering, technical, and business improvement services in Kentucky manufacturing facilities, through the network of Kentucky Technology Service locations in the state, that lead to the development of new product lines, additional value-added products, and new manufacturing methods;

(c) Coordinate services for and support the activities of Kentucky manufacturers that need additional projects, activities, and expertise beyond those available through the Kentucky Technology Service, Inc.;

(d) Promote, along with other economic development entities, the development of supplier chains, the linkages among suppliers, and the growth of clusters within the Commonwealth;~~[and]~~

(e) Provide to the Cabinet for Economic Development and Kentucky Innovation Commission a report of the advances made in the manufacturing modernization projects initiated***; and***

(f) Promote the research and development and assist with the identification of funding sources for health information technology in this Commonwealth.

Section 15. KRS 154.12-278 is amended to read as follows:

(1) As used in this section, "cluster" and "knowledge-based" shall have the same meaning as in KRS 164.6011.

(2) There is established the Office of the Commissioner for the New Economy in the Cabinet for Economic Development. Notwithstanding KRS 154.10-050, the Governor shall nominate the commissioner, who shall be approved by the Kentucky Economic Development Partnership.

(3) The duties of the Office of the Commissioner for the New Economy shall include but not be limited to:

(a) Undertake a strategic technology capacity initiative under KRS 154.12-270;

(b) Develop a knowledge-based economy strategy to be presented to the Kentucky Economic Development Partnership and the Kentucky Innovation Commission in KRS 154.12-270;

(c) Oversee the modernization initiative in KRS 154.12-274;

(d) Assist the cabinet in the recruitment of research and development companies;

(e) Assist the cabinet in the attraction of high-technology research and development centers;

(f) Support growth and creation of knowledge-based, innovative companies;

(g) Build and promote networks of technology-driven clusters and research intensive industries;

(h) Administer the high-tech construction pool and the high-tech investment pool;~~[and]~~

(i) Recommend projects to the Kentucky Economic Development Finance Authority for funding through the high-tech construction pool and high-tech investment pool***; and***

(j) Cooperate with other state agencies and private corporations to secure funding for and promote the research and development of health information technology in this Commonwealth.

(4) The high-tech construction pool shall be used for projects with a special emphasis on the creation of high-technology jobs and knowledge-based companies. The commissioner, in administering the high-tech construction pool, shall recommend distribution of funds and projects to the Kentucky Economic Development Finance Authority for its approval. The commissioner shall recommend any designated amount of pool funds to be set aside for any match requirements. Any funds used for matching purposes may include public and private funds.

(5) The high-tech investment pool shall be used to build and promote networks to technology-driven industries and research-intensive industries, as well as their related suppliers, with the goal of creating clusters of innovation-driven industries in Kentucky. The commissioner, in administering the high-tech investment pool, shall be authorized to recommend funds to be used to support loans and grants, or to secure an equity position in industrial networks.

(6) The Kentucky Economic Development Finance Authority shall assure in their approval of funding of projects that the highest priority is given to knowledge-based companies in fulfillment of the purposes and intentions of the purposes of this section.

Section 16. KRS 205.559 is amended to read as follows:

(1) The Cabinet for Health Services and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall provide Medicaid reimbursement for a telehealth consultation that is provided by a Medicaid-participating practitioner who is licensed in Kentucky and that is provided in the telehealth network established in KRS 11.550***(17)***~~[(3)]~~(b).

(2) (a) The cabinet shall establish reimbursement rates for telehealth consultations. A request for reimbursement shall not be denied solely because an in-person consultation between a Medicaid-participating practitioner and a patient did not occur.

(b) A telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail.

(3) A health-care facility that receives reimbursement under this section for consultations provided by a Medicaid-participating provider who practices in that facility and a health professional who obtains a consultation under this section shall establish quality-of-care protocols and patient confidentiality guidelines to ensure that telehealth consultations meet all requirements and patient care standards as required by law.

(4) The cabinet shall not require a telehealth consultation if an in-person consultation with a Medicaid-participating provider is reasonably available where the patient resides, works, or attends school or if the patient prefers an in-person consultation.

(5) The cabinet shall request any waivers of federal laws or regulations that may be necessary to implement this section.

(6) (a) The cabinet and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall study the impact of this section on the health care delivery system in Kentucky and shall, upon implementation, issue a quarterly report to the Legislative Research Commission. This report shall include an analysis of:

1. The economic impact of this section on the Medicaid budget, including any costs or savings as a result of decreased transportation expenditures and office or emergency room visits;

2. The quality of care as a result of telehealth consultations rendered under this section; and

3. Any other issues deemed relevant by the cabinet.

(b) In addition to the analysis required under paragraph (a) of this subsection, the cabinet report shall compare telehealth reimbursement and delivery among all regional managed care partnerships or other entities under contract with the cabinet for the administration or provision of the Medicaid program.

(7) The cabinet shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms, records required, and authorization procedures to be followed in conjunction with this section."; and

On page 5, line 8 by deleting "***shall***" and inserting "***may***" in lieu thereof; and

On page 5, line 14 by deleting "***shall***" and inserting "***may***" in lieu thereof; and

On page 5, line 18 by deleting "***shall***" and inserting "***may***" in lieu thereof; and

On page 6, line 19 by deleting "***shall***" and inserting "***may***" in lieu thereof; and

On page 6, line 23 by deleting "***shall***" and inserting "***may***" in lieu thereof; and

On page 7, after line 1, insert the following:

"Section 1. The current members of the Telehealth Board shall continue to serve the remainder of their terms as members of the Kentucky e-Health and Telehealth Board created under Section 7 of this Act. Until the Kentucky e-Health and Telehealth Board members are appointed, the Telehealth Board shall continue to operate and carry out the functions of the Telehealth Board.

Section 2. Any carryover funding or any future funding appropriated or funding from any other source designated for the purpose of telehealth shall be transferred to the Kentucky e-Health and Telehealth Board.".

Floor Amendment No. 1 to **HB 270**, by Representative Vincent:

On page 2, after line 14, insert:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 395 IS CREATED TO READ AS FOLLOWS:

In the event of a transfer of real property by will or under the laws of intestate succession, the personal representative of the estate, if one has been appointed, or the beneficiary, devisee, or heir at law, prior to closing out the estate, shall file an affidavit with the property valuation administrator of each county in which any of the property is located, which shall contain the following:

(1) The names and addresses of the persons receiving each property passing by will or intestate succession; and

(2) The full or fair market value of each property as estimated or established for any purpose in the handling of the estate, or a statement that no such values were estimated or established."

Floor Amendment No. 1 to the Committee Substitute to **HB 568**, by Representative Geveden:

On page 1, after line 8, by inserting the following new section:

"Section 2. KRS 61.680 is amended to read as follows:

(1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852, and to all other provisions thereof. Thereafter, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4).

(2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and Teachers' Retirement System shall be consolidated for the purpose of determining eligibility and amount of benefits. Vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education and accepted by the Kentucky Employees Retirement System or the County Employees Retirement System, may be used to determine eligibility for twenty-seven (27) year retirement but not the amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one (1) system. If the member has prior service in more than one (1) system, he shall obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate the prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits, each system shall pay the applicable percentage of total benefits.

(b) The provisions of paragraph (a) of this subsection shall be waived if the member notifies the system of his desire to maintain separate retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System, or County Employees Retirement System, or if he is a member of the State Police Retirement System or is working in a hazardous position under the Kentucky Employees Retirement System or County Employees Retirement System and as a result of an act in line of duty, becomes disabled or deceased.

(c) If the member has not contributed at least one (1) year in a system in which he has prior service, his current service in the system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.

(d) Any member of the General Assembly who retires from a position covered by one (1) of the state-administered retirement systems while in office may elect to participate in the Legislators' Retirement Plan within thirty (30) days of his retirement. Any member who did not have the option to elect to participate in the Legislators' Retirement Plan under this paragraph may elect to participate in the Legislators' Retirement Plan as of the date of his retirement if he elects to do so within thirty (30) days of the effective date of this Act.

(3) A member with service credit in the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System who becomes the holder of an office entitling him to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, but who does not elect within thirty (30) days after taking office in such service to participate in the plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System. In that event, the agency employing the member shall withhold employee contributions, or picked-up employee contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership. Any person entitled to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, who does not elect within thirty (30) days after taking office to participate in the plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the Teachers' Retirement System, shall participate in the Kentucky Employees Retirement System. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the system in which the employer of the nonelected position participates. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is not employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the Kentucky Employees Retirement System.

(4) (a) Prior to July 1, 1976, a person entering the service of an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System with service credit in the Teachers' Retirement System and who desires to retain membership in the Teachers' Retirement System, and who is permitted by that system to continue, shall be exempt from participating in the Kentucky Employees Retirement System or the County Employees Retirement System.

(b) Any person who has elected to retain membership in the Teachers' Retirement System as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, if he elects to cancel his option prior to January 1, 1977.

(c) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System and who does not elect within thirty (30) days after taking office to participate in the Legislators' Retirement Plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky Employees Retirement System unless an election to retain membership in the Teachers' Retirement System is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the Teachers' Retirement System for the same period of service under the Legislators' Retirement Plan or the Kentucky Employees Retirement System as a member of the General Assembly, but contributions made to the Teachers' Retirement System while a member of the General Assembly shall be transferred to the Legislators' Retirement Plan, as provided for in KRS 6.535, when the member elects to join the Legislators' Retirement Plan, and service credit in the Legislators' Retirement Plan shall be granted as provided for in KRS 6.505(3).

(5) Effective July 1, 1974, any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in a position covered by one (1) of these retirement systems and his employee contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up the employee contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership, as subsection (2) of this section eliminates the necessity of the transfers.

(6) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in more than one (1) position covered by the same retirement system, shall have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, an accumulation of all hours worked within the same retirement system shall be used to determine eligibility under KRS 61.510(21).

(7) Notwithstanding the provisions of subsection (2) of this section, a person who does not have the amount of service required for service retirement in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System, but who is a member of one (1) of the systems or is a former member of one (1) or more of the systems with valid service credit therein, shall become eligible for service retirement benefits attributable to the amount of his actual service credit in each system in which he has service credit when his combined service credit in all the systems, plus any service credit he has in the Judicial Retirement Plan, is equal to that required for service retirement in each respective system. The computation of benefits shall be based

on the applicable formula in each system and service credit in each system. The final compensation shall be determined by using the creditable compensation reported to the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System and only as much of the compensation earned in the Judicial Retirement Plan as is needed to satisfy the final compensation requirement applicable in the respective retirement systems."

Floor Amendment No. 2 to the Committee Substitute to **SB 74**, by Representative Rasche:

On page 1, line 4 by deleting "***board-approved preparatory***" and inserting "***college-level***" in lieu thereof; and

On page 1, lines 10 and 11 by deleting "***College Board and Educational Testing Service***" and inserting "***the College Entrance Examination Board***" in lieu thereof; and

On page 1, line 12 by deleting "***the College Board and Educational Testing Service***" and inserting "***the College Entrance Examination Board, a national nonprofit association that provides college admission guidance and advanced placement examinations***" in lieu thereof; and

On page 1, between lines 12 and 13 by inserting the following:

"***(5) "Core curriculum" means at least one (1) course in at least four (4) of the six (6) following subject areas: English, science, mathematics, social studies, foreign language, and the arts.***"

On page 1, line 13 by changing "***(5)***" to "***(6)***"; and

On page 1, line 14 by changing "***(6)***" to "***(7)***"; and

On page 1, line 14 by deleting "***board-approved college preparatory***" and inserting "***college-level***" in lieu thereof; and

On page 1, line 14 by inserting "***developed in accordance with Section 5 of this Act***" after "***study***"; and

On page 1, line 18 by changing "***(7)***" to "***(8)***"; and

On page 1, line 18 by deleting "***college preparatory***" and inserting "***college-level***" in lieu thereof; and

On page 1, line 18 by inserting "***developed in accordance with Section 5 of this Act***" after "***study***"; and

On page 1, between lines 19 and 20 by inserting the following:

"***(9) "International Baccalaureate" means the International Baccalaureate Organization's Diploma Programme, a comprehensive two (2) year program designed for highly motivated students.***"; and

On page 1, line20 by changing "***(8)***" to "***(10)***"; and

On page 1, line 23 by changing "***(9)***" to "***(11)***"; and

On page 4, line 7 by inserting "***International Baccalaureate,***" after "***placement,***"; and

On page 4, lines 7 and 8 by and deleting "***as defined in Section 6 of this Act***"; and

On page 4, line 11 by inserting "***International Baccalaureate,***" after "***placement,***"; and

On page 4, line 16 by inserting "***International Baccalaureate,***" after "***placement,***"; and

On page 4, line 23 by deleting "***board-approved preparatory***" and inserting "***college-level***" in lieu thereof; and

On page 5, lines 2 and 3 by deleting "***College Board and Educational Testing Service***" and inserting "***the College Entrance Examination Board***" in lieu thereof; and

On page 5, line 4 by deleting "***the College Board and Educational Testing Service***" and inserting "***the College Entrance Examination Board, a national nonprofit association that provides college admission guidance and advanced placement examinations***" in lieu thereof; and

On page 5, line 6 by deleting "***board-approved college preparatory***" and inserting "***college-level***" in lieu thereof; and

On page 5, line 6 by inserting "***developed in accordance with Section 5 of this Act***" after "***study***"; and

On page 5, line 10 by deleting "***college preparatory***" and inserting "***college-level***" in lieu thereof; and

On page 5, line 10 by inserting "***developed in accordance with Section 5 of this Act***" after "***study***"; and

On page 5, between lines 11 and 12 by inserting the following:

"***(8) "International Baccalaureate" means the International Baccalaureate Organization's Diploma Programme, a comprehensive two (2) year program designed for highly motivated students.***"; and

On page 5, line 12 by changing "***(8)***" to "***(9)***"; and

On page 5, line 15 by changing "***(9)***" to "***(10)***"; and

On page 6, line 7 by deleting all of Section 6, ending on page 19, line 19.

Floor Amendment No. 2 to **HB 525**, by Representative Richards:

On page 7, line 17, after "*constructing*" insert "*, remodeling,*"; and
On page 7, line 18, delete "*new*".

Floor Amendment No. 1 to **HB 804**, by Representative Heleringer:

On page 7, after line 27, by inserting the following:

"*(14) Any charitable organization required to be licensed under this chapter or charitable organization considered exempt from licensure under this chapter shall expend in the Commonwealth of Kentucky all of the net receipts it derives from conducting charitable gaming activities for the purposes specified under KRS 238.536(1). As a condition of licensure as a charitable organization, each charitable organization shall provide to the department a detailed accounting regarding its expenditure of charitable gaming net receipts to include the activities in the Commonwealth of Kentucky upon which the net receipts were expended. As a condition of exemption from licensure as a charitable organization, each exempt charitable organization shall provide to the department, on a form issued by the department under subsection (2) of this section, an accounting regarding its expenditures of charitable gaming net receipts to include the activities in the Commonwealth of Kentucky upon which the net receipts were expended.*"

Floor Amendment No. 1 to the Committee Substitute to **HB 542**, by Representative Yonts:

On page 1, between lines 3 and 4, insert the following:

"*(1) "Attributable net income" means the amount by which current tax year net income from the business activity generating the credit exceeds net income from the business activity generating the credit in the tax year ending during calendar year 2001;*"; and

On page 1, line 4, delete "*(1)*" and insert in lieu thereof "*(2)*"; and
On page 1, line 6, delete "*(2)*" and insert in lieu thereof "*(3)*"; and
On page 1, line 8, delete "*(3)*" and insert in lieu thereof "*(4)*"; and
On page 2, line 13, delete "*(4)*" and insert in lieu thereof "*(5)*"; and
On page 2, line 14, delete "*(5)*" and insert in lieu thereof "*(6)*"; and
On page 2, line 18, delete "*(6)*" and insert in lieu thereof "*(7)*"; and
On page 2, line 21, delete "*(7)*" and insert in lieu thereof "*(8)*"; and
On page 2, line 24, delete "*(8)*" and insert in lieu thereof "*(9)*"; and
On page 3, line 7, delete "*(9)*" and insert in lieu thereof "*(10)*"; and
On page 3, line 10, delete "*(10)*" and insert in lieu thereof "*(11)*"; and
On page 3, line 16, after "*KRS*", insert "*141.020 and* "; and
On page 3, line 19, after the "*.*", insert "*If the taxpayer is a pass-through entity, the credit shall pass through in the same proportion as the distributive share of income or loss is passed through.*"; and
On page 4, between lines 1 and 2, insert the following:

"*(2) The allowable credit is further limited to new income attributable to the activity generating the credit. The credit allowed in Section 2 of this Act, and limited by subsection (1) of this section shall be multiplied by a fraction, the numerator of which is attributable net income, and the denominator of which is net income from all sources.*

On page 4, line 2, delete "*(2)*" and insert in lieu thereof "*(3)*"; and
On page 4, line 13, delete "*(3)*" and insert in lieu thereof "*(4)*"; and
On page 4, line 20, delete "*(4)*" and insert in lieu thereof "*(5)*".

Floor Amendment No. 4 to **SB 2**, by Representative Nunn:

On page 12, line 25, after "diagnoses;" by bracketing and striking through "and";

On page 13, line 3, after "efforts" by inserting "*; and*

(f) Recommend statutory, regulatory, and policy changes to improve access to mental health screening, evaluation, and treatment for juveniles in detention centers and for prisoners in all county and city jails in Kentucky by July 15, 2003. The recommendations shall be sent to the Jail Standards Commission";

On page 21, after line 3, by inserting the following:

"Section 10. KRS 441.105 is amended to read as follows:

The jailer shall:

(1) Submit a quarterly report to the fiscal court concerning the physical condition of the jail, the number of jail personnel and personnel needs, and other matters requested by the fiscal court.

(2) Submit a monthly report to the department, on forms supplied by the department, containing, but not limited to, the following information on each prisoner:

  (a) The unit of government whose law the prisoner is charged with violating, the statute or ordinance the prisoner is charged with violating, and whether the charge is a felony or misdemeanor;

  (b) The status of the prisoner, whether pending trial or post conviction;

  (c) The age and sex of the prisoner; ~~[and]~~

  (d) The county responsible for the incarceration of the prisoner*; and*

  (e) The provision of mental health screening, evaluation, or treatment.

(3) Submit a report to the department within twenty-four (24) hours of any prisoner's suicide attempt or any prisoner's suicide.

(4) The department shall consolidate the information contained in the reports required by subsections (2) and (3) of this section and submit one (1) statewide report by September 1 each year that contains information on the provision of mental health services to prisoners and suicides and suicide attempts to the Department for Mental Health and Mental Retardation Services of the Cabinet for Health Services and to the Kentucky Commission on Services and Supports to Individials with Mental Illness, Alcohol and Other Drug Disorders, and Dual Diagnoses.

Section 11. KRS 441.115 is amended to read as follows:

(1) For the purpose of raising the level of competence of jailers and jail personnel, the department shall maintain a jail staff training program to provide training for jailers and jail personnel consistent with the standards promulgated pursuant to KRS 441.055 and shall keep records of jailers and jail personnel who satisfactorily complete basic and annual continuing education. The training program shall include training on the human immunodeficiency virus infection and acquired immunodeficiency syndrome approved by the Cabinet for Health Services*, and mental health screening and suicide prevention*. A curriculum advisory committee composed of jailers, their representatives, and recognized professionals in the field of jail administration shall advise the department concerning the training needs of jailers and jail personnel. The jail staff training program shall be directed and staffed, in coordination with the Governmental Services Center at Kentucky State University, by knowledgeable persons who have sufficient experience, training, and education in jail operations. The department shall not charge a fee for training jailers, their deputies, or jailers-elect.

(2) Beginning in August, 1982, each jailer shall receive an expense allowance to help defray the costs of his participation in the jail staff training program. The expense allowance shall be in the amount of three hundred dollars ($300) per month payable out of the State Treasury. Expense allowance payments shall be discontinued if the jailer fails to satisfactorily complete annual continuing training. Expense allowance payments shall be resumed following a discontinuance for failure to satisfactorily complete basic or annual training only upon the jailer's satisfactory completion of the training.

(3) The allowance authorized in subsections (2) and (4) of this section shall be considered as operating expenses of the jailer's office and shall not be considered as part of his compensation. Jailers shall not be required to keep records verifying the expenditures from the allowance provided by the state.

(4) In order to receive the expense allowance for their first year in office, jailers who have been elected to office for the first time, shall, before taking office, successfully complete a training program designed for new jailers and conducted by the personnel of the jail staff training program. This provision shall not apply if the jailer-elect is ill and unable to complete the training before taking office. In such cases, the jailer-elect shall successfully complete a new jailer training program during his first year in office in order to receive the expense allowance. The county or urban-county government in which the jailer-elect serves shall pay out of the jail budget, once he takes office, all necessary and reasonable travel expenses incurred by the jailer-elect in attending the new jailer training program.

(5) All jailers shall successfully complete the training required. If a jailer does not successfully complete the required training within the time specified, he shall not receive the expense allowance specified in subsection (2) of this section until he successfully completes the required training.

Section 12. KRS 441.055 is amended to read as follows:

(1) The Department of Corrections shall for those counties which elect to house state prisoners in their jail:

  (a) Adopt the recommendations of the Jail Standards Commission created pursuant to Executive Order Number 81-1026 and promulgate regulations pursuant to KRS Chapter 13A establishing minimum standards for jails. These standards shall include, but not be limited to, rules governing the following areas:

    1. Health and safety conditions;

    2. Fire safety;

    3. Jail operations, recordkeeping, and administration;

    4. Curriculum of basic and continuing annual training for jailers and jail personnel, including *mental health*

screening, suicide prevention, and training relating to juvenile holding facilities;

5. Custody, care, and treatment of prisoners;
6. Medical care***, including working agreements for mental health screening, evaluation, and treatment of prisoners***; and
7. Jail equipment, renovation, and construction;

(b) Develop a jail standards review process, which shall include the participation of persons knowledgeable of jail operations to review and amend the standards as necessary. The jail standards shall be reviewed no later than December 31, 1992, and at least every two (2) years thereafter. Fifty percent (50%) of the participants in the review process shall be appointed from persons representing county interests and fifty percent (50%) shall be appointed from persons representing state interests; and

(c) Provide technical assistance and consultation to local governments in order to facilitate compliance with standards.

(2) The department shall, for those counties that elect not to hold state prisoners in their jails, adopt the recommendations of the Jail Standards Commission and promulgate administrative regulations pursuant to KRS Chapter 13A to establish minimum standards for those jails. These standards shall be limited to health and life safety***, and working agreements for mental health screening, evaluation, and treatment***.

(3) The department may establish classifications of jails based on the maximum permissible period of incarceration or other criteria and promulgate standards for each class of jail.

Section 13. KRS 210.400 is amended to read as follows:

Subject to the provisions of this section and the policies and regulations of the secretary of the Cabinet for Health Services, each community mental health-mental retardation board shall:

(1) Review and evaluate mental health and mental retardation services provided pursuant to KRS 210.370 to 210.460, and report thereon to the secretary of the Cabinet for Health Services, the administrator of the program, and, when indicated, the public, together with recommendations for additional services and facilities;

(2) Recruit and promote local financial support for the program from private sources such as community chests, business, industrial and private foundations, voluntary agencies, and other lawful sources, and promote public support for municipal and county appropriations;

(3) Promote, arrange, and implement working agreements with other social service agencies, ***local and regional jails and detention facilities,*** both public and private, and with other educational and judicial agencies;

(4) Adopt and implement policies to stimulate effective community relations;

(5) Be responsible for the development and approval of an annual plan and budget;

(6) Act as the administrative authority of the community mental health and mental retardation program; and

(7) Oversee and be responsible for the management of the community mental health and mental retardation program in accordance with the plan and budget adopted by the board and the policies and regulations issued under KRS 210.370 to 210.480 by the secretary of the Cabinet for Health Services.

Section 14. If the 2003-2004 executive budget and accompanying memoranda provide duties for the Kentucky Commission on Services and Supports to Individuals with Mental Illness, Alcohol and Other Drug Disorders, and Dual Diagnoses relating to the provision of mental health services in jails, including juvenile detention centers, those provisions shall take precedence over subsection (3)(f) of Section 5 of this Act.".

Floor Amendment No. 7 to the Committee Substitute to **HB 598**, by Representative Marcotte:

On Page 8, line 18, by deleting "***one thousand dollars ($1,000)***, and inserting and underlining in lieu thereof "***five thousand dollars ($5,000)***".

Floor Amendment No. 8 to the Committee Substitute to **HB 598**, by Representative Marzian:

From page 4, line 21, through page 5, line 8, by deleting all brackets, strikethrough, and underlined language.

Motions, Petitions, and Communications

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 39, Representative McKee

HB 412, Representative Marcotte

HB 454, Representative Crimm

HB 506, Representative Hall

HB 553, Representative Hoffman

HB 598, Representative Brinkman

HB 637, Representative Hall

HB 654, Representative Richards

HB 708, Representative McKee

HB 737, Representative Kerr

HB 766, Representative Bather

HB 777, Representative Hall

HB 789, Representative Gooch

HB 848, Representative Tapp

HCR 159, Representative McKee.

HR 48, Representatives Barrows and Crenshaw

HR 136, Representative Palumbo

HR 223, Representative Barrows

The following members filed requests to have their names withdrawn as co-sponsors of Bills:

HB 511, Representative Nunn

HB 766, Representative Jenkins.

Announcements

The following meetings were announced:

Program Review and Investigations: upon adjournment, Room 149

Appropriations and Revenue: today, 5:00 p.m.

Adjournment

Representative Stumbo moved that the House adjourn until 9:00 a.m. on Friday, March 8, 2002.

The motion that the

adjourn until 9:00 a.m., Friday, March 8, 2002, was adopted by voice vote.

FRIDAY, MARCH 8, 2002

FORTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Father Charles Ellestad, Church of the Ascension, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Branham, Hoover, Reinhardt, and Weaver.

Senate Message

Announcing passage of **SB 38, SB 187, SB 203, SB 216, SB 239, SCR 92, HB 112, HB 115, HB 231, HB 273, HB 320, HB 422, HB 549,** and **HCR 72**.

Message received in regard to **HB 258**: The Senate has passed **HB 258** with the following Senate Committee Substitute and Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 339**: The Senate has passed **HB 339** with the following Senate Committee Substitute and Senate Committee Amendment No. 1 Title and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HJR 77**: The Senate has passed **HJR 77** with the following Senate Floor Amendment No. 1 and Senate Floor Amendment No. 2 Title and respectfully requests concurrence of this Honorable Body. (Time: 9:15 a.m.)

Representative Ballard moved that the reading of the Journal of Thursday, March 7, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Appropriations and Revenue: **SB 178**

Banking and Insurance: **SB 152**

Education: **SB 211**

Health and Welfare: **SB 142, 196**

Seniors, Military Affairs and Public Safety: **SB 188**

State Government: **SB 1**

Floor Resolutions: **HR 224**

The Committee on Rules reported that **HB 650, HB 685, HB 702, SB 2, SB 7, SB 86, SB 107, SB 112, SB 128, SB 143, SJR 16, SJR 23, SJR 39,** and **SCR 47** have been posted for passage in the Orders of the Day for March 11, 2002.

Report of Committees

The Committee on Appropriations and Revenue reported **HB 507, HB 657, HB 658, HJR 87, HJR 133,** and **HJR 134,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 507, AN ACT relating to appropriations providing financing for the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state-supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, Road Fund, restricted funds accounts, or federal funds accounts for the fiscal year ending June 30, 2002, and for the fiscal year beginning July 1, 2002, and ending June 30, 2003, and for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following discrete sums, or so much thereof as may be necessary. Appropriated funds are included pursuant to KRS 48.700 and 48.710. Each appropriation is made by source of respective fund or funds accounts. Appropriations for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units of the state government, and any and all other activities of the government of the Commonwealth, are subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes and compliance with the conditions and procedures set forth in this Act.

A. GOVERNMENT OPERATIONS

Budget Units

1. EXECUTIVE OFFICE OF THE GOVERNOR

a. Office of the Governor

	2002-03	2003-04
General Fund	7,651,000	7,651,000
Restricted Funds	1,911,000	2,144,000
Federal Funds	71,000	71,000
Total	9,633,000	9,866,000

Included in the above General Fund appropriation in each year of the biennium is $18,000 for the Governor's expense allowance and $10,000 for the Lieutenant Governor's expense allowance to meet additional expenses associated with the position of Governor of Kentucky and the position of Lieutenant Governor as specified in KRS 64.710.

b. Office of State Budget Director

	2002-03	2003-04
General Fund	3,665,000	3,665,000
Restricted Funds	923,000	1,318,000
Total	4,588,000	4,983,000

c. State Planning Fund

	2002-03	2003-04
General Fund	490,000	490,000

The Governor is authorized to expend funds for the improvement and advancement of governmental purposes and activities. Included in the above General Fund appropriation is a grant of $25,000 in fiscal year 2002-2003 and $25,000 in fiscal year 2003-2004 to be awarded to the Bluegrass State Games to assist with planning and production of the games.

TOTAL - EXECUTIVE OFFICE OF THE GOVERNOR

	2002-03	2003-04
General Fund	11,806,000	11,806,000
Restricted Funds	2,834,000	3,462,000
Federal Funds	71,000	71,000
TOTAL	14,711,000	15,339,000

2. GOVERNOR'S OFFICE OF TECHNOLOGY

	2002-03	2003-04
General Fund	300,000	300,000
Restricted Funds	61,318,000	61,318,000
Road Funds	125,000	125,000
Total	61,743,000	61,743,000

Included in the above Restricted Funds appropriation is $536,000 in fiscal year 2002-2003 and $536,000 in fiscal year 2003-2004 to fund the operating costs of the Office for Geographic Information Systems. These receipts will be derived from any state agency or university that benefits from the implementation of the Geographic Information Systems basemap technology. The Office of Geographic Information Systems shall recommend, and the Chief Information Officer (CIO) shall approve, the cost allocation plan. Upon approval by the CIO, the agencies and universities shall pay their proportional share of the plan.

3. GOVERNOR'S OFFICE OF VETERANS' AFFAIRS

	2002-03	2003-04
General Fund	14,436,500	15,153,700
Restricted Funds	18,448,100	19,332,000
Total	32,884,600	34,485,700

4. GOVERNOR'S OFFICE OF EARLY CHILDHOOD DEVELOPMENT

	2002-03	2003-04
General Fund	213,500	213,500
Restricted Funds	50,000	0
Federal Funds	175,000	175,000
Total	438,500	388,500

5. KENTUCKY INFRASTRUCTURE AUTHORITY

	2002-03	2003-04
General Fund	-0-	1,111,000
Restricted Funds	2,579,000	2,568,000
Federal Funds	50,313,000	50,312,000
Total	52,892,000	53,991,000

Included in the above General Fund appropriation is $1,111,000 in fiscal year 2003-2004 for debt service.

6. GOVERNOR'S OFFICE OF AGRICULTURAL POLICY

	2002-03	2003-04
Restricted Funds	155,900	161,000

7. KENTUCKY AGENCY FOR SUBSTANCE ABUSE POLICY

	2002-03	2003-04
Federal Funds	111,700	111,700

8. SECRETARY OF STATE

	2002-03	2003-04
General Fund	2,360,100	2,360,100
Restricted Funds	878,500	1,006,600
Total	3,238,600	3,366,700

The above Restricted Funds appropriations shall be used for the continuation of current activities within the General Administration unit and for the operations and staff of the Uniform Commercial Code Branch notwithstanding the provisions of KRS 14.140.

9. BOARD OF ELECTIONS

	2002-03	2003-04
General Fund	4,739,700	4,832,500
Restricted Funds	108,600	116,900
Total	4,848,300	4,949,400

Included in the above General Fund appropriation is $3,335,300 in fiscal year 2003-2004 and $3,428,100 in fiscal year 2003-2004 to pay the state's share of county election expenses (KRS 117.345) and the state's share of voter registration expenses (KRS 116.145 and KRS 117.343). Notwithstanding KRS 117.345(2), the maximum state payment rate is increased from the current statutory level of $255 to $300 per precinct per election to each precinct containing at least 350 registered voters and for those precincts containing less than 350 registered voters with prior approval from the State Board of Elections. Any amount that the state is required to pay in excess of the above amounts under the provisions of KRS 116.145, KRS 117.343, and KRS 117.345 shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (48.705).

Special elections and additional precincts created by redistricting shall be deemed necessary governmental expenses and be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (48.705).

10. TREASURY

	2002-03	2003-04
General Fund	2,275,900	2,275,900
Restricted Funds	815,700	834,500

Total	3,091,600	3,110,400

Included in the Restricted Funds appropriation above is a recurring transfer from the Unclaimed Property Fund. In each respective fiscal year of the 2002-2004 biennium, $807,900 and $834,500 is appropriated to provide funding for services performed by the Unclaimed Property Division of the Treasury Department.

11. ATTORNEY GENERAL

	2002-03	2003-04
General Fund	13,312,100	13,325,500
Restricted Funds	6,747,400	7,269,900
Federal Funds	2,351,400	2,351,400
Total	22,410,900	22,946,800

12. UNIFIED PROSECUTORIAL SYSTEM

a. Commonwealth's Attorneys

	2002-03	2003-04
General Fund	24,091,800	25,738,900
Restricted Funds	843,300	200,000
Federal Funds	598,600	631,300
Total	25,533,700	26,570,200

Included in the above General Fund appropriation is $258,400 in fiscal year 2002-2003 and $259,400 in fiscal year 2003-2004 to support a Commonwealth's Attorney and staff to service the 57th Judicial Circuit as authorized by the 2001 General Assembly.

Notwithstanding the provisions of KRS 218A.435(12), second sentence, which reads, "The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient," funds are recommended for appropriation to support the operations of the Commonwealth's Attorneys.

Included in the above General Fund appropriation are funds to provide each full-time Commonwealth's Attorney the sum of $1,000 each month, which is declared to be the equivalent of the minimum sum that the Commonwealth's Attorney will expend each month in the performance of the official duties directed to be performed for the Commonwealth, notwithstanding KRS 15.755(6).

b. County Attorneys

	2002-03	2003-04
General Fund	20,679,900	21,677,500
Restricted Funds	62,300	4,800
Federal Funds	414,700	434,800
Total	21,156,900	22,117,100

Notwithstanding the provisions of KRS 218A.435(12), second sentence, which reads, "The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient," funds are recommended for appropriation to support the operations of the County Attorneys.

Included in the above General Fund appropriation are funds to provide each County Attorney the sum of $500 each month, which is declared to be the equivalent of the minimum sum that each County Attorney will expend each month in the performance of the official duties directed to be performed for the Commonwealth, notwithstanding KRS 15.765(2).

TOTAL - UNIFIED PROSECUTORIAL SYSTEM

	2002-03	2003-04
General Fund	44,771,700	47,416,400
Restricted Funds	905,600	204,800
Federal Funds	1,013,300	1,066,100
TOTAL	46,690,600	48,687,300

13. AUDITOR OF PUBLIC ACCOUNTS

	2002-03	2003-04
General Fund	5,600,400	5,600,400
Restricted Funds	3,740,500	4,152,100
Total	9,340,900	9,752,500

Notwithstanding KRS 43.200, no funding is provided for Auditor's scholarships.

14. AGRICULTURE

	2002-03	2003-04
General Fund	20,052,400	20,362,400
Restricted Funds	3,154,800	3,573,800
Federal Funds	2,130,000	2,130,000
Total	25,337,200	26,066,200

Included in the above General Fund appropriation is $478,500 in fiscal year 2002-2003 and $478,500 in fiscal year 2003-2004 for the Breathitt Veterinary Center and $370,000 in fiscal year 2002-2003 and $370,000 in fiscal year 2003-2004 for the University of Kentucky for the diagnostic laboratories.

Included in the above General Fund appropriation is $100,000 in each fiscal year for the Agriculture/Economic Development joint trade office in Mexico. Notwithstanding KRS 45.229, any unexpended General Fund for the Mexico Trade Office shall be continued into the succeeding fiscal year, and the Cabinet for Economic Development shall assist in seeking and obtaining matching funds for the joint office.

Included in the above General Fund appropriation is $500,000 in each fiscal year for the Youth Tobacco Enforcement Program pursuant to KRS 438.330 and KRS 438.335. The Alcoholic Beverage Control agency shall jointly participate in the program's enforcement.

15. MILITARY AFFAIRS

	2002-03	2003-04
General Fund	10,979,900	10,979,900
Restricted Funds	18,680,500	18,796,200
Federal Funds	19,107,500	18,187,800
Total	48,767,900	47,963,900

There is appropriated from the General Fund the necessary funds to be expended, subject to the conditions and procedures provided in this Act, which are required as a result of the Governor's call of the Kentucky National Guard to active duty when an emergency or exigent situation has been declared to exist by the Governor. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures in this Act, which are required to match federal aid to which the state would be eligible in the event of a presidentially-declared disaster or emergency. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

Included in the above General Fund appropriation is $420,000 in each fiscal year for the Youth Challenge Program.

16. PERSONNEL BOARD

	2002-03	2003-04
General Fund	578,500	578,500
Restricted Funds	1,700	1,700
Total	580,200	580,200

17. LOCAL GOVERNMENT

	2001-02	2002-03	2003-04
General Fund		11,473,100	11,737,000
Restricted Funds		785,800	652,400
Federal Funds	7,500,000	49,408,900	49,405,800
Total	7,500,000	61,667,800	61,795,200

18. SPECIAL FUNDS

a. Local Government Economic Assistance Fund

	2002-03	2003-04
General Fund	38,166,200	38,668,900

b. Local Government Economic Development Fund

	2002-03	2003-04
General Fund	46,118,300	47,499,200

The above appropriations from the General Fund are based on the official estimate presented by the Office of State Budget Director for severance tax collections during the biennium, distributed in accordance with KRS 42.450 to 42.495. Notwithstanding provisions set forth in KRS 42.4582, moneys transferred from the General Fund to the Local Government

Economic Development Fund shall be calculated at the percentage of forty-seven percent (47%) effective July 1, 2002. Moneys transferred from the General Fund to the Local Government Economic Development Fund shall be calculated at fifty percent (50%) effective July 1, 2003. If actual severance tax receipts are different from the official estimate, the amount to be allotted to the Local Government Economic Assistance Fund shall be determined in accordance with KRS 42.450 to 42.495 and the amount to be allotted to the Local Government Economic Development Fund shall continue to be calculated at the percentages specified in this paragraph and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4585, the quarterly calculation and transfer of the funds pursuant to KRS 42.4585 shall be made only after each quarterly installment of the annual appropriation of $1,000,000 in fiscal year 2002-2003 and $1,000,000 in fiscal year 2003-2004 has been credited to the Trover Clinic Grant within the Department for Local Government.

Notwithstanding KRS 42.4582, the quarterly calculation and transfer of moneys from the General Fund to the Local Government Economic Development Fund pursuant to KRS 42.4582 shall be made only after each quarterly installment of the annual appropriation of $1,407,100 in fiscal year 2002-2003 and $1,480,200 in fiscal year 2003-2004 has been credited to the Osteopathic Scholarship program within the Kentucky Higher Education Assistance Authority.

Notwithstanding KRS 42.4585, the amount transferred annually from the Local Government Economic Development Fund into the Local Government Economic Assistance Fund under the provisions of KRS 42.4585 shall not be less than an amount equal to fourteen and one-half percent (14-1/2%) in fiscal year 2002-2003 and fifteen percent (15%) in fiscal year 2003-2004 of the severance and processing taxes on coal collected annually and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $472,000 in fiscal year 2002-2003 and $472,000 in fiscal year 2003-2004 has been transferred as Restricted Funds to the East Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $467,000 in fiscal year 2002-2003 and $467,000 in fiscal year 2003-2004 has been transferred as Restricted Funds to the West Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $770,500 in fiscal year 2002-2003 and $783,600 in fiscal year 2003-2004, has been transferred as Restricted Funds to the Department for Coal County Development within the Cabinet for Economic Development.

Notwithstanding KRS 42.4592, the quarterly calculation for the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $550,000 in fiscal year 2002-2003 and $550,000 in fiscal year 2003-2004 has been credited to the Kentucky Appalachian Commission and Appalachian Regional Commission related expenditures.

Notwithstanding KRS 42.4586, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $960,800 in fiscal year 2002-2003 and $960,800 in fiscal year 2003-2004 has been credited to the Secondary Wood Products Development Fund.

Notwithstanding KRS 342.122(1)(c), $19,000,000 from the General Fund shall not be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission in fiscal year 2002-2003 and fiscal year 2003-2004.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $100,000 in fiscal year 2002-2003 and $100,000 in fiscal year 2003-2004 has been credited to the Kentucky Coal Coalition within the Department for Local Government.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of money to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $5,000,000 in each year of the biennium that shall be reserved for the high-tech construction/investment pools created under KRS 154.12-278. Notwithstanding KRS 42.4588(4) and KRS 42.4588(5), these funds will be used for projects and programs recommended by the Office of the Commissioner for the New Economy in the Cabinet for Economic Development and approved by the Commissioner of the Department for Coal County Development in the Cabinet for Economic Development. The projects identified are limited to research and development, commercialization or work-related initiatives consistent with the character of the high-tech construction and high-tech investment pools administered by the Office for the New Economy. Investment and construction pool projects must be targeted solely to Kentucky's Local Government Economic Development Fund eligible counties.

Notwithstanding KRS 42.4588, the Commissioner of the Department for Coal County Development, in consultation with affected counties, shall be authorized to approve Local Government Economic Development Fund grants for job training and telecommunications infrastructure projects. The Commissioner is further authorized to prioritize funding of projects in the following order: industrial development projects, job training projects, and any other eligible projects or projects funded out of the Local Government Economic Development Fund.

Notwithstanding KRS 42.4588, the Cabinet for Economic Development is authorized to provide $1,000,000 for the East Kentucky Development Alliance to support a revolving loan fund and $2,000,000 for the Appalachia Bus program from the Local Government Economic Development Fund Multi-County Fund, effective fiscal year 2002-2003.

Pursuant to the authority given in KRS 42.485, the continuing appropriation amount from fiscal year 2001-2002 to fiscal year 2002-2003 and from fiscal year 2002-2003 to fiscal year 2003-2004 shall equal the dollar amount that the Local Government Economic Development and Local Government Economic Assistance Funds have the statutory authority to expend.

c. Area Development Fund

	2002-03	2003-04
General Fund	830,500	830,500

Notwithstanding KRS 48.185, funds appropriated from the General Fund for the Area Development Fund shall be limited to these amounts.

TOTAL - SPECIAL FUNDS

	2002-03	2003-04
General Fund	85,115,000	86,998,600

19. COMMISSION ON HUMAN RIGHTS

	2002-03	2003-04
General Fund	1,978,200	2,078,000
Restricted Funds	24,000	24,000
Federal Funds	170,800	170,800
Total	2,173,000	2,272,800

20. COMMISSION ON WOMEN

	2002-03	2003-04
General Fund	269,900	269,900
Restricted Funds		4,600
Federal Funds		200
Total	269,900	274,700

21. COMMISSION ON SMALL BUSINESS ADVOCACY

	2002-03	2003-04
General Fund	75,000	75,000
Restricted Funds	45,000	45,000
Total	120,000	120,000

22. KENTUCKY RETIREMENT SYSTEMS

	2002-03	2003-04
Restricted Funds	13,807,800	14,880,100

23. REGISTRY OF ELECTION FINANCE

	2002-03	2003-04
General Fund	8,475,200	3,475,200
Restricted Funds	202,800	203,200
Total	8,678,000	3,678,400

Included in the above General Fund appropriation is $7,000,000 in fiscal year 2002-2003 and $2,000,000 in fiscal year 2003-2004 to support the state share of Gubernatorial campaign financing required for payment under the provisions of KRS 121A.030 and KRS 121A.080. Any amount in excess of the appropriated amounts needed to support the state share of Gubernatorial Campaign Financing shall be deemed Necessary Government Expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund (KRS 48.705).

24. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

a. Board of Accountancy

	2002-03	2003-04
Restricted Funds	752,700	782,100

b. Alcohol and Drug Counselors

	2002-03	2003-04
Restricted Funds	62,000	65,000

c. Board of Architects

	2002-03	2003-04
Restricted Funds	272,000	258,300

d. Board of Art Therapists

	2002-03	2003-04
Restricted Funds	11,300	11,400

e. Kentucky Athletic Commission

	2002-03	2003-04
Restricted Funds	158,500	167,300

f. Board of Auctioneers

	2002-03	2003-04
Restricted Funds	360,200	370,500

g. Board of Barbering

	2002-03	2003-04
Restricted Funds	225,600	231,500

h. Board of Chiropractic Examiners

	2002-03	2003-04
Restricted Funds	182,800	191,400

i. Board of Dentistry

	2002-03	2003-04
Restricted Funds	474,400	504,400

j. Board of Dietitians and Nutritionists

	2002-03	2003-04
Restricted Funds	67,900	71,500

k. Board of Embalmers and Funeral Directors

	2002-03	2003-04
Restricted Funds	240,400	249,100

l. Board of Engineers and Land Surveyors

	2002-03	2003-04
Restricted Funds	1,291,800	1,354,100

m. Board of Fee-Based Pastoral Counselors

	2002-03	2003-04
Restricted Funds	6,000	6,000

n. Board of Geologists

	2002-03	2003-04
Restricted Funds	133,000	135,000

o. Board of Hairdressers and Cosmetologists

	2002-03	2003-04
Restricted Funds	998,900	1,105,000

p. Board of Hearing Instrument Specialists

	2002-03	2003-04
Restricted Funds	50,700	52,700

q. Board of Interpreters for Deaf and Hard of Hearing

	2002-03	2003-04
Restricted Funds	25,000	25,000

r. Board of Landscape Architects

	2002-03	2003-04
Restricted Funds	55,300	57,800

s. Board of Marriage and Family

	2002-03	2003-04
Restricted Funds	79,200	83,200

t. Board of Medical Licensure

	2002-03	2003-04
Restricted Funds	1,992,500	2,099,900

u. Board of Nursing

	2002-03	2003-04
Restricted Funds	4,230,500	4,268,900

Included in the above Restricted Funds appropriation is $175,000 in each fiscal year for the Nursing Incentive Scholarship Program.

v. Nursing Home Administrators Licensure Board

	2002-03	2003-04
Restricted Funds	69,000	76,200

w. Board of Occupational Therapy

	2002-03	2003-04
Restricted Funds	76,600	86,000

x. Board of Ophthalmic Dispensers

	2002-03	2003-04
Restricted Funds	57,600	62,900

y. Board of Optometric Examiners

	2002-03	2003-04
Restricted Funds	152,400	157,000

z. Board of Pharmacy

	2002-03	2003-04
Restricted Funds	835,000	876,000

aa. Board of Physical Therapy

	2002-03	2003-04
Restricted Funds	263,400	280,000

ab. Board of Podiatry

	2002-03	2003-04
Restricted Funds	14,500	15,500

ac. Board of Professional Counselors

	2002-03	2003-04
Restricted Funds	49,700	51,700

ad. Board of Proprietary Education

	2002-03	2003-04
Restricted Funds	123,000	134,300

ae. Board of Psychology

	2002-03	2003-04
Restricted Funds	169,600	176,100

af. Real Estate Appraisers Board

	2002-03	2003-04
Restricted Funds	614,900	631,900

ag. Real Estate Commission

	2002-03	2003-04
Restricted Funds	2,003,100	2,302,900

Included in the above Restricted Funds appropriation is $966,700 in fiscal year 2002-2003 and $1,224,000 in fiscal year 2003-2004 for Real Estate Education and Recovery.

ah. Board of Respiratory Care

	2002-03	2003-04
Restricted Funds	182,700	188,600

ai. Board of Social Workers

	2002-03	2003-04
Restricted Funds	141,300	145,300

aj. Board of Speech Pathologists and Audiologists

	2002-03	2003-04
Restricted Funds	83,000	86,000

ak. Board of Veterinary Examiners

	2002-03	2003-04
Restricted Funds	228,300	237,800

TOTAL - OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

	2002-03	2003-04
Restricted Funds	16,734,800	17,598,300

25. EDUCATION PROFESSIONAL STANDARDS BOARD

	2002-03	2003-04
General Fund	10,433,800	11,097,000
Restricted Funds	1,378,500	829,600
Federal Funds	122,200	122,200
Total	11,934,500	12,048,800

Notwithstanding KRS 161.134, $800,000 in fiscal year 2002-2003 and $800,000 in fiscal year 2003-2004 is provided for National Board of Teaching Standards Certification from the General Fund.

Notwithstanding KRS 161.028(1)(o) and (q), the above Restricted Funds appropriation may be used for the operations of the Board.

26. BOARD OF EMERGENCY MEDICAL SERVICES

		2002-03	2003-04
General Fund		2,571,200	2,571,200
Restricted Funds		168,300	171,700
Federal Fund		296,800	100,000
Total	3,036,300	2,842,900	

27. GOVERNMENTAL SERVICES CENTER

	2002-03	2003-04
Restricted Funds	1,462,000	1,516,000

28. EXECUTIVE BRANCH ETHICS COMMISSION

	2002-03	2003-04
General Fund	335,900	340,500
Restricted Funds	300	2,400
Total	336,200	342,900

29. MISCELLANEOUS APPROPRIATIONS

a. Judgments

	2002-03	2003-04
General Fund	-0-	-0-

The above appropriation is for the payment of judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board and where applicable, shall be subject to the provisions of KRS Chapter 45, and for the payment of medical malpractice judgments against the University of Kentucky and the University of Louisville in accordance with

KRS 164.941 and 164.892. Notwithstanding KRS 45.229, any remaining appropriation in the Judgments account at the end of fiscal year 2001-2002 or fiscal year 2002-2003 shall not lapse but shall be carried forward into fiscal years 2002-2003 and 2003-2004, respectively.

b. Attorney General Expense

	2002-03	2003-04
General Fund	225,000	225,000

c. Board of Claims Awards

	2002-03	2003-04
General Fund	600,000	600,000

Funds are appropriated from the General Fund for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund. However, awards under $2,000, in cases where the operating agency admits negligence, shall be paid from funds available for the operations of the agency.

d. Guardian Ad Litem

	2002-03	2003-04
General Fund	3,200,000	3,400,000

Included in the above appropriation is funding for fees to be paid to the guardian ad litem appointed by the court pursuant to KRS 311.732. The fee shall be fixed by the court and shall not exceed $500.

e. Prior Year Claims

	2002-03	2003-04
General Fund	400,000	400,000

f. Unredeemed Checks Refunded

	2002-03	2003-04
General Fund	1,000,000	1,000,000

Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with KRS 41.370.

g. Involuntary Commitments ICF/MR

	2002-03	2003-04
General Fund	60,000	60,000

h. Frankfort in Lieu of Taxes

	2002-03	2003-04
General Fund	195,000	195,000

i. Frankfort Cemetery

	2002-03	2003-04
General Fund	2,500	2,500

j. Police Officers and Firefighters--Life Insurance

	2002-03	2003-04
General Fund	250,000	250,000

Funds are appropriated for payment of benefits for state and local police officers and firefighters in accordance with KRS 61.315.

k. Master Commissioners--Employers Retirement

	2002-03	2003-04
General Fund	200,000	200,000

l. Master Commissioner--Social Security

	2002-03	2003-04
General Fund	313,000	343,000

m. Workers' Compensation

	2002-03	2003-04
General Fund	502,000	532,000

Funds are appropriated for workers' compensation premiums for fee officers in counties over 70,000 in population.

n. Medical Malpractice Liability Insurance Reimbursements

	2002-03	2003-04
General Fund	60,000	60,000

o. Blanket Employee Bonds

	2002-03	2003-04
General Fund	100,000	100,000

TOTAL - MISCELLANEOUS APPROPRIATIONS

	2002-03	2003-04
General Fund	7,107,500	7,367,500

Included in the above appropriations is $0 in fiscal year 2002-2003 and $0 in fiscal year 2003-2004 for refunding money paid into the State Treasury, which may later be determined not to be a lawful collection by the state. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and with the approval of the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

Funds required to pay the costs of items included within the Miscellaneous Appropriations category are appropriated, and any required expenditure over the above amounts is to be paid first from the General Fund Surplus Account (KRS 48.700) if available or from any available balance in either the Judgments budget unit appropriation or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

30. KENTUCKY RIVER AUTHORITY

Budget Units

	2002-03	2003-04
General Fund	379,000	379,000
Restricted Funds	3,266,000	3,698,000
Total	3,645,000	4,077,000

TOTAL - GOVERNMENT OPERATIONS

	2001-02	2002-03	2003-04
General Fund		259,640,500	262,704,700
Restricted Funds		158,293,600	162,422,800
Federal Funds	7,500,000	125,271,600	124,204,000
Road Funds		125,000	125,000
TOTAL	7,500,000	543,330,700	549,456,500

B. CABINET FOR ECONOMIC DEVELOPMENT

31. CABINET FOR ECONOMIC DEVELOPMENT

Budget Units

a. Office of the Secretary

	2002-03	2003-04
General Fund	1,392,700	1,417,100
Restricted Funds	4,575,200	4,612,800
Total	5,967,900	6,029,900

Included in the above Restricted Funds appropriations is $472,000 in fiscal year 2002-2003 and $472,000 in fiscal year 2003-2004 for the East Kentucky Jobs Creation Corporation and $467,000 in fiscal year 2002-2003 and $467,000 in fiscal year 2003-2004 for the West Kentucky Jobs Creation Corporation. Also included in the above Restricted Funds appropriations is $770,500 in fiscal year 2002-2003 and $783,600 in fiscal year 2003-2004 for the Coal County Development Office. Notwithstanding KRS 42.4592, the Restricted Funds appropriations for the East Kentucky Corporation, the West Kentucky Corporation, and the Coal County Development Office shall be funded from the Local Government Economic Development Fund prior to any other statutory distribution from the Local Government Economic Development Fund.

Included in the above Restricted Funds appropriation is $300,000 in fiscal year 2002-2003 and $300,000 in fiscal year 2003-2004 for the Kentucky Technology Service Grant administered by the Kentucky Manufacturing Assistance Center.

Included in the above Restricted Funds appropriation is $420,800 in fiscal year 2002-2003 and $420,800 in fiscal year 2003-2004 for the Louisville Waterfront Development Corporation.

Included in the above appropriation are Restricted Funds in the amount of $2,144,900 in fiscal year 2002-2003 and $2,169,400 in fiscal year 2003-2004 for the Office of the Commissioner for the New Economy, including up to $1,300,000 in each year for Innovation and Commercialization Centers. Notwithstanding KRS 164.6019, 164.6021, 164.6027, 164.6029, 164.6035, 164.6037, and 164.6043, the unobligated balance of fiscal year 2001-2002 appropriations from the Council on Postsecondary Education, Science and Technology Trust Fund shall be transferred to the Office of the Commissioner for the New Economy to provide Restricted Funds appropriation for fiscal year 2002-2003 totaling $1,969,400 and totaling $1,000,000 in fiscal year 2003-2004.

b. Administration and Program Support

	2002-03	2003-04
General Fund	2,179,900	2,167,500
Restricted Funds	29,800	45,900
Total	2,209,700	2,213,400

c. Business Development

	2002-03	2003-04
General Fund	2,517,900	2,541,600
Restricted Funds	248,800	290,600
Total	2,766,700	2,832,200

d. Financial Incentives

	2001-02	2002-03	2003-04
General Fund		3,343,800	3,371,900
Restricted Funds	351,500	2,182,700	2,227,300
Total	351,500	5,526,500	5,599,200

The General Fund appropriation for fiscal year 2001-2002 and for fiscal year 2002-2003 for the Bluegrass State Skills Corporation shall be continued and not lapse to the General Fund Surplus Account, notwithstanding KRS 45.229.

Notwithstanding KRS 154.12-207, the Secretary is directed to take such action as may be necessary to execute contractual agreements for designated skills training and education projects for which funds have been specifically appropriated.

No commitment for employee training shall be made beyond the ability of the Cabinet to fund the project within the appropriation for the current biennium.

Balances remaining in the Special Revenue Fund accounts after all appropriations authorized in this bill are funded shall lapse to the Deferred Maintenance Account at the end of each fiscal year.

The Bluegrass State Skills Corporation shall submit a quarterly financial report to the Governor's Office for Policy and Management, the Legislative Research Commission, and the Interim Joint Committee on Appropriations and Revenue.

Notwithstanding KRS 154.12-278 by which the Kentucky Economic Development Finance Authority (KEDFA) authorized a grant of up to $1,300,000 in fiscal year 2001-2002 to the Kentucky Science and Technology Corporation, a maximum of $900,000 of the authorized amount shall be conveyed for expenditure. The remaining funding shall be retained and shall be appropriated to the Office of the Commissioner for the New Economy to be used to fund Innovation and Commercialization grants.

e. Community Development

	2002-03	2003-04
General Fund	2,855,900	2,956,000
Restricted Funds	440,100	454,000
Federal Funds	157,100	155,400
Total	3,453,100	3,565,400

TOTAL - CABINET FOR ECONOMIC DEVELOPMENT

	2001-02	2002-03	2003-04
General Fund		12,290,200	12,454,100
Restricted Funds	351,500	7,476,600	7,630,600
Federal Funds		157,100	155,400
TOTAL	351,500	19,923,900	20,240,100

C. EDUCATION

32. EDUCATION

Budget Units

a. Support Education Excellence in Kentucky (SEEK) Program

	2002-03	2003-04
General Fund	2,229,077,400	2,290,296,800

Accumulated earnings for the Common School Fund shall be transferred in each fiscal year to the Support Education Excellence in Kentucky program.

The above appropriations include $1,561,687,300 in fiscal year 2002-2003 and $1,614,651,300 in fiscal year 2003-2004 for the base SEEK program as defined by KRS 157.360. Funds appropriated to the Support Education Excellence in Kentucky program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. Included in the appropriation for base SEEK is $186,083,500 in fiscal year 2002-2003 and $191,222,300 in fiscal year 2003-2004 for pupil transportation, notwithstanding KRS 157.360(2)(c).

Included in the above appropriation is $132,157,200 in fiscal year 2002-2003 and $129,764,700 in fiscal year 2003-2004 for the Tier I component as established by KRS 157.440.

Included in the above appropriation is $2,416,900 in fiscal year 2002-2003 and $2,416,900 in fiscal year 2003-2004 for vocational transportation.

Included in the above appropriation is $21,452,600 in fiscal year 2002-2003 and $21,452,600 in fiscal year 2003-2004 to provide secondary vocational education in state-operated vocational schools.

Included in the above appropriation is $57,258,000 in fiscal year 2002-2003 and $53,833,700 in fiscal year 2003-2004 to provide facilities equalization funding pursuant to the provisions of KRS 157.620 and KRS 157.440.

Included in the above appropriation is $267,421,900 in fiscal year 2002-2003 and $276,355,300 in fiscal year 2003-2004 to enable local school districts to provide the employer match for qualified employees as provided for by KRS 161.550.

Included in the above appropriation is $600,000 in each fiscal year to assist local school districts in providing salary supplements for teachers attaining certification by the National Board of Professional Teaching Standards, notwithstanding the provisions of KRS 157.395.

b. Executive Policy and Management

	2002-03	2003-04
General Fund	715,400	735,100

c. Operations and Support Services

	2002-03	2003-04
General Fund	11,542,700	11,823,500
Restricted Funds	2,187,900	2,264,400
Federal Funds	562,500	573,800
Total	14,293,100	14,661,700

Included in the above General Fund appropriation is $2,503,800 in fiscal year 2002-2003 and $2,553,900 in fiscal year 2003-2004 to enable the Department of Education to provide the employer match for the teacher retirement contribution for qualified employees as provided by KRS 161.550.

d. Learning and Results Services

	2002-03	2003-04
General Fund	568,213,100	592,036,000
Restricted Funds	5,850,700	5,851,200
Federal Funds	491,060,800	497,995,000
Total	1,065,124,600	1,095,882,200

Included in the above General Fund appropriation is $15,000,000 in fiscal year 2002-2003 and $15,000,000 in fiscal year 2003-2004 for the education technology escrow account.

Included in the above General Fund appropriation is $10,800,000 in fiscal year 2002-2003 and $10,800,000 in fiscal year 2003-2004 for reimbursement to local school districts for the education of state agency children as defined by KRS 158.135.

Included in the above General Fund appropriation is $277,397,000 in fiscal year 2002-2003 and $309,119,400 in fiscal year 2003-2004 to provide health insurance and life insurance coverage for employees of local school districts.

Included in the above General Fund appropriation is $9,060,000 in fiscal year 2002-2003 and $8,449,500 in fiscal year 2003-2004 for the school rewards escrow account.

Included in the above General Fund appropriation is $5,421,100 in fiscal year 2002-2003 and $5,659,500 in fiscal year

2003-2004 for the Kentucky School for the Blind, and $9,139,800 in fiscal year 2002-2003 and $9,559,300 in fiscal year 2003-2004 for the Kentucky School for the Deaf.

TOTAL - EDUCATION

	2002-03	2003-04
General Fund	2,809,548,600	2,894,891,400
Restricted Funds	8,038,600	8,115,600
Federal Funds	491,623,300	498,568,800
TOTAL	3,309,210,500	3,401,575,800

D. EDUCATION, ARTS AND HUMANITIES CABINET

Budget Units

33. OFFICE OF THE SECRETARY

	2002-03	2003-04
General Fund	3,240,800	3,270,800
Restricted Funds	36,400	36,700
Total	3,277,200	3,307,500

Included in the above General Fund appropriation is $1,470,900 in each fiscal year for the Governor's Scholars Program.

Included in the above General Fund appropriation is $405,000 in fiscal year 2002-2003 and $405,000 in fiscal year 2003-2004 for the Governor's School for the Arts.

Up to $30,000 in General Fund support each year is available to be transferred to the Environmental Education Council for additional support.

34. KENTUCKY ARTS COUNCIL

	2002-03	2003-04
General Fund	4,644,600	4,693,700
Restricted Funds	713,800	612,500
Federal Funds	624,800	621,100
Total	5,983,200	5,927,300

35. TEACHERS' RETIREMENT SYSTEM

	2002-03	2003-04
General Fund	85,707,200	88,275,600
Restricted Funds	7,330,100	7,571,900
Total	93,037,300	95,847,500

General Fund moneys are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 to 161.716.

The above General Fund appropriation, in conjunction with those included elsewhere within this Act for the Teachers' Retirement System, is based upon estimated funds needed to meet the requirements of KRS 161.220 to 161.716. If these combined General Fund appropriations are in excess of these requirements, the excess funds shall lapse to the credit of the General Fund.

In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent (4%) of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund moneys are provided in fiscal year 2002-2003 or fiscal year 2003-2004 for the cost of administration.

Included in the above General Fund appropriation is $3,668,400 in fiscal year 2002-2003 and $7,636,700 in fiscal year 2003-2004 to provide the cost of amortizing the requirements of KRS 161.155 (sick leave) for members retiring during the 2002-2004 biennium.

Included in above General Fund appropriation is $694,800 in fiscal year 2002-2003 and $1,451,800 in fiscal year 2003-2004 to increase minimum value payments for members qualifying under provisions of KRS 161.620(3).

Included in the above General Fund appropriation is $1,179,900 in fiscal year 2003-2004 to make up for an underappropriation during fiscal year 2000-2001 under the provisions of KRS 161.550.

36. SCHOOL FACILITIES CONSTRUCTION COMMISSION

	2002-03	2003-04
General Fund	77,121,400	86,226,800

Included in the above General Fund appropriation is $76,853,100 in fiscal year 2002-2003 and $77,476,500 in fiscal year 2003-2004 for debt service for bonds previously issued.

Included in the above General Fund appropriation is $8,500,000 in fiscal year 2003-2004 for debt service for previously authorized bonds.

The School Facilities Construction Commission is authorized to make an additional $100,000,000 in offers of assistance during the 2002-2004 biennium in anticipation of debt service availability during the 2004-2006 biennium. No bonded indebtedness based on the above amount is to be incurred during the 2002-2004 biennium.

37. DEAF AND HARD OF HEARING

	2002-03	2003-04
General Fund	909,100	881,100
Restricted Funds	200,000	200,000
Total	1,109,100	1,081,100

38. KENTUCKY HERITAGE COUNCIL

	2002-03	2003-04
General Fund	945,700	945,700
Restricted Funds	234,600	227,500
Federal Funds	766,100	766,100
Total	1,946,400	1,939,300

39. KENTUCKY EDUCATIONAL TELEVISION

	2002-03	2003-04
General Fund	14,836,400	15,289,300
Restricted Funds	1,106,400	1,075,700
Federal Funds	700,000	700,000
Total	16,642,800	17,065,000

40. KENTUCKY HISTORICAL SOCIETY

	2002-03	2003-04
General Fund	6,145,000	6,377,500
Restricted Funds	572,200	571,400
Federal Funds	95,900	42,500
Total	6,813,100	6,991,400

41. LIBRARIES AND ARCHIVES

a. General Operations

	2002-03	2003-04
General Fund	7,226,100	7,462,600
Restricted Funds	1,667,200	1,830,800
Federal Funds	1,807,600	1,836,800
Total	10,700,900	11,130,200

b. Direct Local Aid

	2002-03	2003-04
General Fund	5,966,700	5,980,200
Restricted Funds	9,000	9,000
Federal Funds	424,000	424,000
Total	6,399,700	6,413,200

Included in the above General Fund appropriation is $3,669,500 in each fiscal year to award per capita grants at the rate of seventy-three cents, notwithstanding KRS 171.201.

TOTAL - LIBRARIES AND ARCHIVES

	2002-03	2003-04
General Fund	13,192,800	13,442,800
Restricted Funds	1,676,200	1,839,800
Federal Funds	2,231,600	2,260,800
Total	17,100,600	17,543,400

42. KENTUCKY CENTER FOR THE ARTS

	2002-03	2003-04
General Fund	619,800	619,800

43. ENVIRONMENTAL EDUCATION COUNCIL

	2002-03	2003-04
Restricted Funds	150,000	150,000

TOTAL - EDUCATION, ARTS, AND HUMANITIES CABINET

	2002-03	2003-04
General Fund	207,362,800	220,023,100
Restricted Funds	12,019,700	12,285,500
Federal Funds	4,418,400	4,390,500
TOTAL	223,800,900	236,699,100

E. CABINET FOR FAMILIES AND CHILDREN

Budget Units

44. COMMUNITY BASED SERVICES

	2002-03	2003-04
General Fund	280,666,700	279,264,400
Restricted Funds	101,883,400	123,639,600
Federal Funds	468,549,000	476,832,800
Total	851,099,100	879,736,800

The Department for Community Based Services shall reimburse citizen members of the Public Assistance Appeals Board an amount not to exceed $75 per day plus travel expenses.

Included in the above General Fund appropriation is $600,000 in fiscal year 2002-2003 and $600,000 in fiscal year 2003-2004 to be transferred to the Department for Medicaid Services to help defray the costs associated with inpatient psychiatric care for children.

45. ADMINISTRATION SERVICES

	2002-03	2003-04
General Fund	27,660,400	29,162,700
Restricted Funds	4,390,100	4,501,800
Federal Funds	37,077,300	38,458,800
Total	69,127,800	72,123,300

46. DISABILITY DETERMINATIONS

	2002-03	2003-04
Restricted Funds	62,700	65,800
Federal Funds	40,129,800	42,376,900
Total	40,192,500	42,442,700

TOTAL - CABINET FOR FAMILIES AND CHILDREN

	2002-03	2003-04
General Fund	308,327,100	308,427,100
Restricted Funds	106,336,200	128,207,200
Federal Funds	545,756,100	557,668,500
TOTAL	960,419,400	994,302,800

F. FINANCE AND ADMINISTRATION CABINET

47. FINANCE AND ADMINISTRATION CABINET

Budget Units

a. General Administration

	2002-03	2003-04
General Fund	5,988,000	6,258,000
Restricted Funds	2,737,000	2,870,000

Total	8,725,000	9,128,000

b. Office of the Controller

	2002-03	2003-04
General Fund	6,098,000	6,193,000
Restricted Funds	396,000	414,000
Federal Funds	4,000,000	4,000,000
Total	10,494,000	10,607,000

c. Debt Service

	2002-03	2003-04
General Fund	250,538,000	249,347,000
Road Fund	3,668,000	3,664,000
Total	254,206,000	253,011,000

d. Administration

	2002-03	2003-04
General Fund	3,637,000	3,513,000
Restricted Funds	9,081,000	9,567,000
Road Fund	283,000	283,000
Total	13,001,000	13,363,000

e. Facilities Management

	2002-03	2003-04
General Fund	8,086,000	8,064,000
Restricted Funds	25,116,000	25,821,000
Total	33,202,000	33,885,000

f. County Costs

	2002-03	2003-04
General Fund	23,078,000	24,078,000
Restricted Funds	1,425,000	1,425,000
Total	24,503,000	25,503,000

Included in the above General Fund appropriation is $5,431,000 in fiscal year 2002-2003 and $5,431,000 in fiscal year 2003-2004 for base court revenue. Funds required to pay county costs other than base court revenue funded by the General Fund are appropriated and additional funds may be allotted from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) by the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

g. County Fees

	2002-03	2003-04
Restricted Funds	77,645,600	80,760,800

TOTAL - FINANCE AND ADMINISTRATION CABINET

	2002-03	2003-04
General Fund	297,425,000	297,453,000
Restricted Funds	116,400,600	120,857,800
Federal Funds	4,000,000	4,000,000
Road Fund	3,951,000	3,947,000
TOTAL	421,776,600	426,257,800

G. CABINET FOR HEALTH SERVICES

Budget Units

48. MEDICAID SERVICES

a. Administration

	2002-03	2003-04
General Fund	17,848,000	18,028,200

Restricted Funds	20,624,400	20,606,800
Federal Funds	44,009,800	44,542,700
Total	82,482,200	83,177,700

If any portion of the General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, the amount may be used for Medicaid Benefits, in accordance with statutes governing the functions and activities of the Department for Medicaid Services. In no instance shall these excess funds be used without prior written approval of the State Budget Director to:

(1) Establish a new program;

(2) Expand the services of an existing program; or

(3) Increase rates or payment levels in an existing program.

Any transfer authorized under this section shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director.

b. Benefits

	2002-03	2003-04
General Fund	751,173,700	755,893,500
Restricted Funds	200,011,300	188,448,600
Federal Funds	2,240,664,700	2,223,774,600
Total	3,191,849,700	3,168,116,700

These funds are to be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Medicaid Services.

Any General Fund appropriation unexpended in fiscal years 2001-2002 and 2002-2003 shall not lapse, but shall be carried forward into the next fiscal year, notwithstanding KRS 45.229.

49. PUBLIC HEALTH

	2002-03	2003-04
General Fund	56,201,300	56,601,300
Restricted Funds	65,849,000	65,914,100
Federal Funds	127,620,500	127,620,500
Total	249,670,800	250,135,900

Notwithstanding any other statutory provisions to the contrary, the Secretary shall promulgate such administrative regulations as may be required to prescribe such user fees as are necessary to support the Restricted Funds appropriations above.

50. MENTAL HEALTH/MENTAL RETARDATION

	2002-03	2003-04
General Fund	168,255,000	171,611,900
Restricted Funds	190,690,900	206,415,200
Federal Funds	41,295,100	41,355,900
Total	400,241,000	419,383,000

51. CHILDREN WITH SPECIAL HEALTH CARE NEEDS

	2002-03	2003-04
General Fund	16,709,500	16,709,500
Restricted Funds	22,089,000	23,262,900
Federal Funds	10,053,700	9,822,800
Total	48,852,200	49,795,200

52. CERTIFICATE OF NEED

	2002-03	2003-04
General Fund	131,500	134,100
Restricted Funds	234,200	251,100
Total	365,700	385,200

The Secretary shall be authorized to promulgate such administrative regulations as may be required to prescribe user fee amounts which are reflected in the Restricted Funds appropriations above.

53. AGING SERVICES

	2002-03	2003-04
General Fund	26,421,800	26,821,800
Restricted Funds	760,400	761,600
Federal Funds	18,885,300	18,885,300
Total	46,067,500	46,468,700

54. ADMINISTRATIVE SUPPORT

	2002-03	2003-04
General Fund	9,358,000	9,355,400
Restricted Funds	8,154,000	8,806,700
Federal Funds	12,729,200	13,254,500
Total	30,241,200	31,416,600

Notwithstanding any other statutory provisions to the contrary, the Secretary shall promulgate such administrative regulations as may be required to prescribe such user fees as are necessary to support the Restricted Funds appropriations above.

TOTAL - CABINET FOR HEALTH SERVICES

	2002-03	2003-04
General Fund	1,046,098,800	1,055,155,700
Restricted Funds	508,413,200	514,467,000
Federal Funds	2,495,258,300	2,479,256,300
TOTAL	4,049,770,300	4,048,879,000

H. JUSTICE CABINET

55. JUSTICE OPERATIONS

Budget Units

a. Justice Administration

	2002-03	2003-04
General Fund	8,086,000	8,231,000
Restricted Funds	1,908,100	2,164,200
Federal Funds	13,433,500	13,384,700
Total	23,427,600	23,779,900

Included in the above General Fund appropriation is $1,425,000 in fiscal year 2002-2003 and $1,425,000 in fiscal year 2003-2004 to provide free civil legal services for indigents.

Included in the above General Fund appropriation is $1,096,700 in fiscal year 2002-2003 and $1,152,200 in fiscal year 2003-2004 for the operation of the State Parole Board.

Notwithstanding KRS 15.460(1), included in the above Restricted Funds appropriation is $3,100 in fiscal year 2002-2003 and $3,100 in fiscal year 2003-2004 for training incentive payments for each participant.

Included within the above Restricted Funds appropriation is $375,600 in fiscal year 2002-2003 and $363,700 in fiscal year 2003-2004 to support the Criminal Justice Council. Notwithstanding the provisions of KRS 15.440, KRS 15.460, and KRS 15.470, these Restricted Funds shall come from the Kentucky Law Enforcement Foundation Program Fund (KLEFPF).

b. State Police

	2001-02	2002-03	2003-04
General Fund		85,574,900	88,324,900
Restricted Funds	5,554,200	7,670,800	7,621,200
Road Fund		30,000,000	30,000,000
Federal Funds		9,772,600	10,261,300
Total	5,554,200	133,018,300	136,207,400

There is appropriated from the General Fund to the Department of State Police, subject to the conditions and procedures provided in this Act, funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty when an emergency situation has been declared to exist by the Governor. Funding is authorized to be provided from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

c. Criminal Justice Training

	2001-02	2002-03	2003-04
Restricted Funds	1,600,000	39,077,100	37,941,400
Federal Funds		2,700,000	2,700,000
Total	1,600,000	41,777,100	40,641,400

Included in the above appropriation is $22,167,300 in fiscal year 2002-2003 and $22,915,000 in fiscal year 2003-2004 for training incentive payments in accordance with KRS 15.430 and KRS 15.440.

Included in the above total Restricted Funds appropriation for Criminal Justice Training is $1,800,000 in fiscal year 2001-2002 to be transferred to the Law Enforcement Basic Training Complex Capital Construction project.

d. Juvenile Justice

	2002-03	2003-04
General Fund	83,550,100	86,050,100
Restricted Funds	14,015,000	15,691,600
Federal Funds	17,300,000	17,250,000
Total	114,865,100	118,991,700

Effective July 1, 2003, the per diem rate for eligible juveniles held in approved locally operated facilities shall increase to $94.

TOTAL - JUSTICE OPERATIONS

	2001-02	2002-03	2003-04
General Fund		177,211,000	182,606,000
Restricted Funds	7,154,200	62,671,000	63,418,400
Road Fund		30,000,000	30,000,000
Federal Funds		43,206,100	43,596,000
TOTAL	7,154,200	313,088,100	319,620,400

56. CORRECTIONS

Budget Units

a. Corrections Management

	2002-03	2003-04
General Fund	15,222,900	15,823,800
Restricted Funds	15,799,700	15,583,900
Federal Funds	799,400	800,000
Total	31,822,000	32,207,700

b. Community Services and Local Facilities

	2002-03	2003-04
General Fund	65,969,000	79,075,000
Restricted Funds	15,623,400	629,900
Total	81,592,400	79,704,900

Notwithstanding the provisions of KRS 441.605 to KRS 441.695 for fiscal year 2002-2003, funds in the amount of $15,000,000 shall be expended from the Kentucky Local Correctional Facilities Construction Authority for local correctional facility and operational support consistent with contractual covenants in accordance with bond indentures of the Authority.

Notwithstanding the provisions of KRS 196.076(1) to (8), funding is not provided for the probation and parole salary improvement program.

c. Adult Correctional Institutions

	2002-03	2003-04
General Fund	188,590,800	201,583,900
Restricted Funds	6,526,100	6,588,500
Federal Funds	215,200	215,200
Total	195,332,100	208,387,600

d. Local Jail Support

	2002-03	2003-04
General Fund	15,276,100	15,276,100

Included in the General Fund appropriation is $931,100 in fiscal year 2002-2003 and $931,100 in fiscal year 2003-2004 for medical care contracts to be distributed, upon approval of the Department of Corrections, to counties by the formula codified in KRS 441.206; $400,000 in fiscal year 2002-2003 and $400,000 in fiscal year 2003-2004 is provided, on a partial reimbursement basis, for medical claims in excess of the statutory threshold pursuant to KRS 441.045. The funding support for medical contracts and catastrophic medical expenses for indigents shall be maintained in discrete accounts. Any medical claim which exceeds the statutory threshold may be reimbursed for that amount in excess of the statutory threshold. In no event shall this apply to expenses of an elective, as opposed to emergency, basis, and expenses shall be paid according to the Kentucky Medical Assistance Schedule.

TOTAL - CORRECTIONS

	2002-03	2003-04
General Fund	285,058,800	311,758,800
Restricted Funds	37,949,200	22,802,300
Federal Funds	1,014,600	1,015,200
TOTAL	324,022,600	335,576,300

TOTAL - JUSTICE CABINET

	2001-02	2002-03	2003-04
General Fund		462,269,800	494,364,800
Restricted Funds	7,154,200	100,620,200	86,220,700
Federal Funds		44,220,700	44,611,200
Road Fund		30,000,000	30,000,000
TOTAL	7,154,200	637,110,700	655,196,700

I. LABOR

57. LABOR CABINET

Budget Units

a. General Administration and Support

	2002-03	2003-04
General Fund	414,900	432,700
Restricted Funds	5,652,600	5,897,300
Total	6,067,500	6,330,000

b. Workplace Standards

	2002-03	2003-04
General Fund	2,085,400	2,067,600
Restricted Funds	117,965,500	116,361,000
Federal Funds	3,280,500	3,280,500
Total	123,331,400	121,709,100

c. Workers' Claims

	2002-03	2003-04
Restricted Funds	16,397,700	17,093,300

d. Kentucky Occupational Safety and Health Review Commission

	2002-03	2003-04
Restricted Funds	476,800	479,300

TOTAL - LABOR CABINET

	2002-03	2003-04
General Fund	2,500,300	2,500,300
Restricted Funds	140,492,600	139,830,900
Federal Funds	3,280,500	3,280,500
TOTAL	146,273,400	145,611,700

Budget Unit

58. KENTUCKY WORKERS' COMPENSATION FUNDING COMMISSION

	2002-03	2003-04
Restricted Funds	126,502,000	126,089,000

Notwithstanding the provisions of KRS 342.122, the Kentucky Workers' Compensation Funding Commission is authorized to finance a portion of the Mines and Minerals budget through Special Fund assessments. Funds in the amount of $850,000 in fiscal year 2002-2003 and $850,000 in fiscal year 2003-2004 shall be transferred to the Department of Mines and Minerals.

Notwithstanding the provisions of KRS 342.122(1)(c), no General Fund appropriation is provided to the Workers' Compensation Funding Commission in fiscal year 2002-2003 and fiscal year 2003-2004.

Notwithstanding the provisions of KRS 342.122(1)(b), the workers' compensation assessment rate shall remain at eleven and one-half percent (11-1/2%) for the biennium.

TOTAL - LABOR

	2002-03	2003-04
General Fund	2,500,300	2,500,300
Restricted Funds	266,994,600	265,919,900
Federal Funds	3,280,500	3,280,500
TOTAL	272,775,400	271,700,700

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

59. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Budget Units

a. General Administration and Support

	2002-03	2003-04
General Fund	9,698,100	10,316,000
Restricted Funds	331,900	277,300
Federal Funds	1,585,200	1,596,300
Total	11,615,200	12,189,600

b. Environmental Protection

	2002-03	2003-04
General Fund	23,497,000	24,301,900
Restricted Funds	20,042,300	23,059,700
Federal Funds	19,357,000	19,661,900
Total	62,896,300	67,023,500

c. Natural Resources

	2002-03	2003-04
General Fund	13,275,600	14,203,800
Restricted Funds	3,398,100	3,809,900
Federal Funds	5,397,700	4,914,700
Total	22,071,400	22,928,400

Not less than $240,000 of the General Fund appropriation for each fiscal year shall be set aside for emergency forest fire suppression. There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures provided in this Act, which are required as a result of emergency fire suppression activities in excess of the $240,000 amount. Fire suppression costs in excess of $240,000 annually shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

d. Surface Mining Reclamation and Enforcement

	2002-03	2003-04
General Fund	10,319,700	10,680,700
Restricted Funds	6,157,800	6,484,100
Federal Funds	17,243,300	17,390,000
Total	33,720,800	34,554,800

Included in the General Fund appropriation is $675,000 in each fiscal year for the return of permit and acreage fees under KRS 350.139; any required expenditure for this purpose in excess of this amount in either fiscal year is appropriated to the department.

e. Abandoned Mine Land Reclamation Projects

	2002-03	2003-04
Federal Funds	22,000,000	22,000,000

The above appropriations represent estimates of the funds to be received and expended for this program. If additional funds become available, the funds are appropriated subject to the conditions and procedures provided in this Act.

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

	2002-03	2003-04
General Fund	56,790,400	59,502,400
Restricted Funds	29,930,100	33,631,000
Federal Funds	65,583,200	65,562,900
TOTAL	152,303,700	158,696,300

60. ENVIRONMENTAL QUALITY COMMISSION

	2002-03	2003-04
General Fund	260,500	276,300
Restricted Funds	2,000	
Total	262,500	276,300

61. KENTUCKY NATURE PRESERVES COMMISSION

	2002-03	2003-04
General Fund	980,900	1,053,100
Restricted Funds	314,700	298,700
Federal Funds	25,000	25,000
Total	1,320,600	1,376,800

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

	2002-03	2003-04
General Fund	58,031,800	60,831,800
Restricted Funds	30,246,800	33,929,700
Federal Funds	65,608,200	65,587,900
TOTAL	153,886,800	160,349,400

K. PERSONNEL CABINET

62. PERSONNEL CABINET

Budget Units

a. General Operations

	2002-03	2003-04
General Fund	3,345,100	3,345,100
Restricted Funds	13,222,000	14,223,200
Total	16,567,100	17,568,300

Notwithstanding KRS 18A.015(2), (3), and (4), the Personnel Cabinet shall collect $5.00 per month per employee eligible for health insurance coverage in the state group for those agencies utilizing the state payroll system and $4.00 per employee eligible for health insurance coverage in the state group utilizing their own payroll system from all employers of state employees defined in KRS 18A.225(1)(b) for duly authorized use by the Personnel Cabinet in administering its statutory and administrative responsibilities, including but not limited to administration of the Commonwealth's health insurance program. Members of the state group utilizing the state payroll system will pay $5.00 per month beginning January 1, 2002.

b. Public Employees Deferred Compensation Authority

	2002-03	2003-04
Restricted Funds	5,183,300	5,622,100

c. Workers' Compensation Benefits and Reserve

	2002-03	2003-04
Restricted Funds	17,269,200	18,138,200

The above appropriations represent estimates of the funds necessary to operate this program. If additional funds are required to adequately maintain this program, the necessary Restricted Funds are appropriated, subject to the conditions and procedures provided in this Act.

TOTAL - PERSONNEL CABINET

	2002-03	2003-04
General Fund	3,345,100	3,345,100
Restricted Funds	35,674,500	37,983,500
TOTAL	39,019,600	41,328,600

L. POSTSECONDARY EDUCATION

Budget Units

63. COUNCIL ON POSTSECONDARY EDUCATION

	2002-03	2003-04
General Fund	101,354,300	157,227,300
Restricted Funds	7,451,300	6,019,200
Federal Funds	3,161,200	3,161,200
Total	111,966,800	166,407,700

Included in the above General Fund appropriation is $82,270,900 in fiscal year 2002-2003 and $137,857,200 in fiscal year 2003-2004 for the Strategic Investment and Incentive Funding Program. The following trust funds and funding programs make up the Strategic Investment and Incentive Funding Program for fiscal year 2002-2003 and for fiscal year 2003-2004. Included in the above General Fund appropriation is $11,230,000 in fiscal year 2003-2004 for the Research Challenge Trust Fund. Included in the above General Fund appropriation is $2,246,000 in fiscal year 2003-2004 for the Regional University Excellence Trust Fund. Included in the above General Fund appropriation is $1,300,000 in fiscal year 2002-2003 and $1,300,000 in fiscal year 2003-2004 for the Technology Initiative Trust Fund. Included in the above General Fund appropriation is $62,431,300 in fiscal year 2002-2003 and $79,230,100 in fiscal year 2003-2004 for the Student Financial Aid and Advancement Trust Fund. Included in the above Restricted Funds appropriation is $750,000 in fiscal year 2002-2003 for the Student Financial Aid and Advancement Trust Fund. Included in the above General Fund appropriation is $11,768,000 in fiscal year 2002-2003 and $11,768,000 in fiscal year 2003-2004 for the Adult Education and Literacy Funding Program. Included in the above General Fund appropriation is $6,771,600 in fiscal year 2002-2003 and $8,771,600 in fiscal year 2003-2004 for the Science and Technology Funding Program. Included in the above Restricted Funds appropriation is $4,000,000 in fiscal year 2002-2003 and $2,000,000 in fiscal year 2003-2004 for the Science and Technology Funding Program. Included in the above General Fund appropriation is $23,311,500 in fiscal year 2003-2004 for the Enrollment Growth and Retention Funding Program. Included in the above Restricted Funds appropriation is $1,311,500 in fiscal year 2003-2004 for the Enrollment Growth and Retention Funding Program.

Included in the above General Fund appropriation for the Research Challenge Trust Fund is $11,230,000 in fiscal year 2003-2004 for debt service to support the Research Challenge Trust Fund-Endowment Match capital project appropriation authorized in Part II.

Included in the above General Fund appropriation for the Regional University Excellence Trust Fund is $2,246,000 in fiscal year 2003-2004 for debt service to support the Regional University Excellence Trust Fund-Endowment Match capital project appropriation authorized in Part II.

Notwithstanding the provisions of KRS 45.229, the General Fund appropriations in fiscal year 2002-2003 to the Adult Education and Literacy Funding Program shall not lapse.

Notwithstanding the provisions of KRS 45.229, the General Fund appropriations in fiscal year 2002-2003 to the Science and Technology Funding Program shall not lapse.

64. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

	2002-03	2003-04
General Fund	45,860,000	66,828,300
Restricted Funds	83,302,500	97,352,600
Federal Funds	769,100	784,500
Total	129,931,600	164,965,400

Included in the above General Fund appropriation is $28,885,800 for the College Access Program in fiscal year 2002-2003 and $42,504,400 in fiscal year 2003-2004 notwithstanding the provisions of KRS 154A.130(4). General Fund appropriations for the College Access Program in the amount of $5,477,800 shall continue from fiscal year 2001-2002 into fiscal year 2002-2003 notwithstanding the provisions of KRS 45.229.

Included in the above General Fund appropriation is $12,288,400 for the Kentucky Tuition Grant Program in fiscal year 2002-2003 and $18,216,200 in fiscal year 2003-2004 notwithstanding the provisions of KRS 154A.130(4). General Fund appropriations for the Kentucky Tuition Grant Program in the amount of $2,438,900 shall continue from fiscal year 2001-2002 into fiscal year 2002-2003 notwithstanding the provisions of KRS 45.229.

Included in the above General Fund for Teacher Scholarship Program is $976,600 in fiscal year 2002-2003 and $2,279,400 in fiscal year 2003-2004 notwithstanding the provisions of KRS 154A.130(4).

Included in the above Restricted Funds is $742,800 in fiscal year 2002-2003 and $765,100 in fiscal year 2003-2004 for the administration of the Kentucky Educational Excellence Scholarship Program.

Any General Fund appropriation to the Kentucky Higher Education Assistance Authority that is unexpended in fiscal years 2001-2002 or 2002-2003 shall not lapse, and shall be continued into the next fiscal year notwithstanding the provisions of KRS 45.229. The expenditure of continuing General Fund appropriation in excess of the amounts specified above shall be subject to the review and approval of the State Budget Director.

65. EASTERN KENTUCKY UNIVERSITY

	2002-03	2003-04
General Fund	73,451,800	73,451,800
Restricted Funds	83,158,600	87,603,100
Federal Funds	44,454,400	46,665,700
Total	201,064,800	207,720,600

Included in the above General Fund appropriation is $3,700,400 in fiscal year 2002-2003 and $3,712,100 in fiscal year 2003-2004 for debt service for previously issued bonds.

66. KENTUCKY STATE UNIVERSITY

	2002-03	2003-04
General Fund	23,162,700	23,162,700
Restricted Funds	16,446,900	17,699,000
Federal Funds	11,500,400	11,730,400
Total	51,110,000	52,592,100

Included in the above General Fund appropriation is $2,247,600 in fiscal year 2002-2003 and $2,252,000 in fiscal year 2003-2004 for debt service for previously issued bonds.

67. MOREHEAD STATE UNIVERSITY

	2002-03	2003-04
General Fund	42,747,400	42,747,400
Restricted Funds	46,293,500	47,104,600
Federal Funds	46,570,500	51,207,100
Total	135,611,400	141,059,100

Included in the above General Fund appropriation is $1,543,700 in fiscal year 2002-2003 and $1,452,600 in fiscal year 2003-2004 for debt service for previously issued bonds.

68. MURRAY STATE UNIVERSITY

	2002-03	2003-04
General Fund	51,669,400	51,669,400
Restricted Funds	68,752,700	72,256,200
Federal Funds	10,646,700	10,906,800
Total	131,068,800	134,832,400

Included in the above General Fund appropriation is $1,880,700 in fiscal year 2002-2003 and $1,884,500 in fiscal year 2003-2004 for debt service for previously issued bonds.

69. NORTHERN KENTUCKY UNIVERSITY

	2002-03	2003-04
General Fund	45,989,000	45,989,000
Restricted Funds	66,180,400	69,535,800
Federal Funds	7,422,000	7,669,100
Total	119,591,400	123,193,900

Included in the above General Fund appropriation is $5,019,600 in fiscal year 2002-2003 and $5,033,300 in fiscal year 2003-2004 for debt service for previously issued bonds.

70. UNIVERSITY OF KENTUCKY

	2002-03	2003-04
General Fund	313,131,100	313,131,100
Restricted Funds	858,765,100	873,254,500
Federal Funds	126,193,600	128,053,100
Total	1,298,089,800	1,314,438,700

Included in the above General Fund appropriation is $6,461,300 in fiscal year 2002-2003 and $5,848,900 in fiscal year 2003-2004 for debt service for previously issued bonds.

Included in the above General Fund appropriation is $9,250,700 in fiscal year 2002-2003 and $9,250,700 in fiscal year 2003-2004 to support the operations of the Lexington Community College, of which $988,100 in fiscal year 2002-2003 and $732,700 in fiscal year 2003-2004 is for debt service for previously issued bonds.

Included in the above Restricted Funds appropriation is $14,424,900 in fiscal year 2002-2003 and $15,388,100 in fiscal year 2003-2004 to support the operations of the Lexington Community College.

Included in the above Federal Funds appropriation is $5,923,500 in fiscal year 2002-2003 and $5,923,500 in fiscal year 2003-2004 to support the operations of the Lexington Community College.

71. UNIVERSITY OF LOUISVILLE

	2002-03	2003-04
General Fund	176,745,200	176,745,200
Restricted Funds	293,652,300	302,317,400
Federal Funds	49,334,100	50,789,900
Total	519,731,600	529,852,500

Included in the above General Fund appropriation is $11,330,000 in fiscal year 2002-2003 and $9,504,900 in fiscal year 2003-2004 for debt service for previously issued bonds. Also included in the above General Fund appropriation is $17,052,900 in fiscal year 2002-2003 and $17,052,900 in fiscal year 2003-2004 to fulfill the Commonwealth's contractual obligation relating to indigent care furnished via the Quality and Charity Care Trust Agreement.

The General Fund appropriation related to the Quality and Charity Care Trust Agreement in the first year of the biennium shall continue into the second year for this purpose, notwithstanding KRS 45.229. Any unused portion of the General Fund appropriation relating to the Quality and Charity Care Trust Agreement shall lapse to the credit of the General Fund at the end of fiscal year 2003-2004.

72. WESTERN KENTUCKY UNIVERSITY

	2002-03	2003-04
General Fund	70,427,000	70,427,100
Restricted Funds	81,837,400	85,598,400
Federal Funds	30,444,000	32,444,000
Total	182,708,500	188,469,500

Included in the above General Fund appropriation is $3,295,900 in fiscal year 2002-2003 and $3,114,500 in fiscal year 2003-2004 for debt service for previously issued bonds.

73. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

	2002-03	2003-04
General Fund	189,722,700	189,722,700
Restricted Funds	177,568,900	185,450,000
Federal Funds	68,053,500	71,735,500
Total	435,345,100	446,908,200

Included in the above General Fund appropriation is $10,726,000 in fiscal year 2002-2003 and $10,765,800 in fiscal year 2003-2004 for debt service for previously issued bonds.

Notwithstanding KRS 95A.250(1), or the provisions of any other law, supplemental payments for each qualified professional firefighter under the Firefighters Foundation Fund shall be $3,100 in fiscal year 2002-2003 and $3,100 in fiscal year 2003-2004.

TOTAL - POSTSECONDARY EDUCATION

	2002-03	2003-04
General Fund	1,134,260,700	1,211,102,000
Restricted Funds	1,783,409,600	1,844,190,800
Federal Funds	398,549,500	415,147,300
TOTAL	3,316,219,800	3,470,440,100

M. PUBLIC PROTECTION AND REGULATION CABINET

Budget Units

74. BOARD OF CLAIMS/CRIME VICTIMS' COMPENSATION

	2002-03	2003-04
General Fund	635,000	657,300
Restricted Funds	2,539,000	2,936,900
Federal Funds	546,900	557,800
Total	3,720,900	4,152,000

75. ALCOHOLIC BEVERAGE CONTROL

	2002-03	2003-04
General Fund	-0-	1,413,000
Restricted Funds	5,787,600	4,545,200
Total	5,787,600	5,958,200

The Department shall receive funds from the Department of Agriculture and cooperate with the Department of Agriculture in order to implement laws relating to the sale and use of tobacco products, pursuant to KRS 438.330.

76. FINANCIAL INSTITUTIONS

	2002-03	2003-04
Restricted Funds	8,993,100	9,329,700

77. KENTUCKY RACING COMMISSION

	2002-03	2003-04
General Fund	522,800	522,800
Restricted Funds	13,702,600	13,664,500
Total	14,225,400	14,187,300

78. HOUSING, BUILDINGS AND CONSTRUCTION

	2002-03	2003-04
General Fund	1,764,100	2,726,600
Restricted Funds	12,826,500	12,287,600
Total	14,590,600	15,014,200

79. INSURANCE

General Operations

	2002-03	2003-04
Restricted Funds	22,851,900	24,162,100

80. MINES AND MINERALS

	2002-03	2003-04
General Fund	9,614,900	9,714,900
Restricted Funds	1,961,100	2,043,200
Federal Funds	598,500	598,500
Total	12,174,500	12,356,600

Notwithstanding KRS 342.122, the Kentucky Workers' Compensation Funding Commission will finance a portion of the Mines and Minerals budget through Special Fund assessments. Funds in the amount of $850,000 in fiscal year 2002-2003 and $850,000 in fiscal year 2003-2004 shall be transferred to Mines and Minerals.

81. PUBLIC ADVOCACY

	2002-03	2003-04
General Fund	23,925,300	25,389,800
Restricted Funds	2,980,900	3,077,900
Federal Funds	1,313,100	1,384,500
Total	28,219,300	29,852,200

82. PUBLIC SERVICE COMMISSION

	2002-03	2003-04
General Fund	11,527,900	11,752,100
Restricted Funds	24,000	24,000
Federal Funds	259,800	272,200
Total	11,811,700	12,048,300

Included in the above General Fund appropriation is $589,000 in fiscal year 2002-2003 and $589,000 in fiscal year 2003-2004 for debt service on bonds for the new office building authorized by the 1996 General Assembly.

Any General Fund appropriation to the Public Service Commission that is unexpended in fiscal years 2001-2002 or 2002-2003 shall not lapse and shall be carried forward into the next fiscal year, notwithstanding KRS 45.229.

83. SECRETARY

a. General Operations

	2002-03	2003-04
General Fund	268,200	278,600
Restricted Funds	2,036,900	2,095,700
Total	2,305,100	2,374,300

b. Petroleum Storage Tank Environmental Assurance Fund

	2002-03	2003-04
Restricted Funds	32,103,700	29,660,600

TOTAL - SECRETARY

	2002-03	2003-04
General Fund	268,200	278,600
Restricted Funds	34,140,600	31,756,300
Total	34,408,800	32,034,900

84. BOARD OF TAX APPEALS

	2002-03	2003-04
General Fund	478,100	498,600

85. CHARITABLE GAMING

	2002-03	2003-04
Restricted Funds	3,460,300	3,603,800

TOTAL - PUBLIC PROTECTION AND REGULATION CABINET

	2002-03	2003-04
General Fund	48,736,300	52,953,700
Restricted Funds	109,268,100	107,431,200
Federal Funds	2,718,300	2,813,000
TOTAL	160,722,700	163,197,900

N. REVENUE

Budget Units

86. REVENUE CABINET

	2002-03	2003-04
General Fund	64,752,000	65,032,000
Restricted Funds	4,519,000	4,149,200
Road Fund	1,418,000	1,418,000

Total	70,689,000	70,599,200

Notwithstanding KRS 136.392, the insurance surcharge rate shall be calculated at a rate to provide sufficient funds in the 2002-2004 fiscal biennium for the Firefighters Foundation Program Fund and the Kentucky Law Enforcement Foundation Program Fund, including the administration of training programs, pay supplements prescribed by statute, and debt service for the respective program funds specified in KRS 15.410 to 15.510, KRS 42.190, KRS 95A.220, and KRS 95A.262 in fiscal year 2002-2003 and fiscal year 2003-2004. The calculation of sufficient funds for the above-named programs shall include any Restricted Funds carried forward from fiscal years 2002-2003 and 2003-2004 provided by the General Assembly in this Act.

The above Road Fund appropriation represents the cost of the Road Fund Compliance and Motor Vehicle Property Tax programs within the Revenue Cabinet and is to be used exclusively for that purpose.

Notwithstanding the provisions of KRS 134.400, the administration of the Delinquent Tax Fund is in the Department of Property Valuation. Proceeds shall be deposited to this account except that the first $100,000 shall be deposited exclusively to the General Fund. The Revenue Cabinet may retain and expend funds from the accumulated balance in the Delinquent Tax Fund account for the administrative activities of the Revenue Cabinet.

87. PROPERTY VALUATION ADMINISTRATORS

	2002-03	2003-04
General Fund	26,769,800	27,536,300
Restricted Funds	3,894,100	4,464,100
Total	30,663,900	32,000,400

Notwithstanding KRS 132.590(3)(c), KRS 132.590(4), and KRS 132.597, the property valuation administrators are authorized to take necessary actions to manage expenditures within the appropriated amounts contained in this Act.

TOTAL - REVENUE CABINET

	2002-03	2003-04
General Fund	91,521,800	92,568,300
Restricted Funds	8,413,100	8,613,300
Road Fund	1,418,000	1,418,000
TOTAL	101,352,900	102,599,600

O. TOURISM DEVELOPMENT CABINET

Budget Units

88. OFFICE OF THE SECRETARY

	2002-03	2003-04
General Fund	1,759,000	2,034,000
Restricted Funds	119,000	1,200,000
Total	1,878,000	3,234,000

89. BREAKS INTERSTATE PARK

	2002-03	2003-04
General Fund	200,000	200,000

90. TRAVEL DEVELOPMENT

	2002-03	2003-04
General Fund	7,041,000	7,211,000

91. PARKS

	2001-02	2002-03	2003-04
General Fund		29,446,000	29,518,000
Restricted Funds	400,000	50,898,000	52,400,000
Total	400,000	80,344,000	81,918,000

Notwithstanding the provisions of KRS 148.800 to KRS 148.810 or any other statute or provision of law to the contrary, the General Assembly authorizes the use of the Park Capital Maintenance and Renovation Fund for any ongoing cost of the Department of Parks.

92. KENTUCKY HORSE PARK

	2001-02	2002-03	2003-04
General Fund	300,000	1,550,000	1,550,000
Restricted Funds		5,200,000	5,632,000

Total	300,000	6,750,000	7,182,000

93. KENTUCKY STATE FAIR BOARD

	2002-03	2003-04
General Fund	407,000	407,000
Restricted Funds	29,923,000	30,433,000
Total	30,330,000	30,840,000

Included in the Restricted Funds appropriation is $371,000 in fiscal year 2002-2003 and $371,000 in fiscal year 2003-2004 for debt service for Project 55.

94. FISH AND WILDLIFE RESOURCES

	2002-03	2003-04
Restricted Funds	27,381,000	28,658,000
Federal Funds	7,850,000	7,650,000
Total	35,231,000	36,308,000

TOTAL-TOURISM DEVELOPMENT CABINET

	2001-02	2002-03	2003-04
General Fund	300,000	40,403,000	40,920,000
Restricted Funds	400,000	113,521,000	118,323,000
Federal Funds		7,850,000	7,650,000
TOTAL	700,000	161,774,000	166,893,000

P. TRANSPORTATION CABINET

95. TRANSPORTATION CABINET

Budget Units

a. Air Transportation

	2002-03	2003-04
Restricted Funds	4,817,200	4,817,900
Federal Funds	13,800	9,400
Total	4,831,000	4,827,300

Notwithstanding KRS 183.525(5), the Restricted Fund appropriation above includes operational costs of the program.

b. Revenue Sharing

	2001-2002	2002-03	2003-04
Road Fund	6,458,800	217,962,400	221,866,600

1. The Official Road Fund Revenue Estimate, revised in December 2001, increased the 2001-2002 estimate by $49,626,000, of which $6,458,800 is appropriated to the Revenue Sharing programs. In accordance with KRS Chapter 177, this increased revenue shall be appropriated to the County Road Aid program, $2,452,200; the Rural Secondary program, $2,974,800; and the Municipal Aid program, $1,031,800.

2. Included in the above Road Fund appropriation is $82,440,100 in fiscal year 2002-2003 and $83,922,400 in fiscal year 2003-2004 for the County Road Aid program in accordance with KRS 177.320, 179.410, 179.415, and 179.440. Notwithstanding KRS 177.320(2), the above amount has been reduced by $38,000 in fiscal year 2002-2003 and $38,000 in fiscal year 2003-2004 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

3. Included in the above Road Fund appropriation is $100,009,400 in fiscal year 2002-2003 and $101,807,600 in fiscal year 2003-2004 for the Rural Secondary program in accordance with KRS 177.320, 177.330, 177.340, 177.350, and 177.360. Notwithstanding KRS 177.320(1), the above amount has been reduced by $46,000 in fiscal year 2002-2003 and $46,000 in fiscal year 2003-2004 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

4. Included in the above Road Fund appropriation is $34,687,900 in fiscal year 2002-2003 and $35,311,600 in fiscal year 2003-2004 for the Municipal Road Aid program in accordance with KRS 177.365 to 177.369. Notwithstanding KRS 177.365(1), the above amount has been reduced by $16,000 in fiscal year 2002-2003 and $16,000 in fiscal year 2003-2004 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

5. Included in the above Road Fund appropriation is $825,000 in fiscal year 2002-2003 and $825,000 in fiscal year 2003-2004 for the Energy Recovery Road Fund in accordance with KRS 177.977 to 177.981.

c. Public Transportation

	2002-03	2003-04
General Fund	4,875,300	4,875,300
Restricted Funds	2,506,100	874,100
Federal Funds	28,864,900	27,517,000
Total	36,246,300	33,266,400

Included in the above General Fund appropriation is $2,500,000 in fiscal year 2002-2003 and $2,500,000 in fiscal year 2003-2004 for non-public school transportation.

d. Highways

	2001-2002	2002-03	2003-04
Restricted Funds		61,627,300	61,633,800
Federal Funds		495,939,000	496,114,400
Road Fund	43,167,200	570,470,500	597,427,400
Total	43,167,200	1,128,036,800	1,155,175,600

1. The Official Road Fund Revenue Estimate, revised in December 2001, increased the 2001-2002 estimate by $49,626,000, of which $43,167,200 is appropriated to the State Funded Construction program.

2. Included in the above Road Fund appropriation is $209,051,100 in fiscal year 2002-2003 and $218,209,500 in fiscal year 2003-2004 for the State Funded Construction program.

Included in the State Funded Construction program is $66,000,000 in fiscal year 2002-2003 and $67,320,000 in fiscal year 2003-2004 from the Road Fund for the State Resurfacing program.

Included in the State Funded Construction program is $500,000 in fiscal year 2002-2003 and $500,000 in fiscal year 2003-2004 from the Road Fund for the Specialized Contracts account.

Included in the State Funded Construction program is $105,551,100 in fiscal year 2002-2003 and $112,649,500 in fiscal year 2003-2004 from the Road Fund for state construction projects in the 2002-2004 Biennial Highway Construction program.

3. Projects in the enacted 2000-2002 Biennial Highway Construction Plan are authorized to continue their current authorization into the 2002-2004 biennium.

Included in the State Funded Construction program is $37,000,000 in fiscal year 2002-2003 and $37,740,000 in fiscal year 2003-2004 for the Highway Construction Contingency Account.

4. Notwithstanding KRS 177.320(4), included in the above Road Fund appropriation is $290,000 in fiscal year 2002-2003 and $290,000 in fiscal year 2003-2004 for the Kentucky Transportation Center.

5. Notwithstanding KRS 48.710, Restricted Funds are appropriated in the amount of $1,500,000 in fiscal year 2002-2003 and $1,500,000 in fiscal year 2003-2004 from the sale of surplus equipment to purchase new highway equipment.

e. Vehicle Regulation

	2002-03	2003-04
Restricted Funds	7,001,700	6,699,300
Federal Funds	2,786,600	2,826,200
Road Fund	30,189,400	31,588,000
Total	39,977,700	41,113,500

f. Debt Service

	2002-03	2003-04
Road Fund	167,660,900	161,312,100

1. Included in the above Road Fund appropriation is $620,600 in fiscal year 2002-2003 and $620,600 in fiscal year 2003-2004 for toll road lease rental payments.

2. Included in the above Road Fund appropriation is $26,334,900 in fiscal year 2002-2003 and $38,889,500 in fiscal year 2003-2004 for Resource Recovery Road lease rental payments. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Transportation Cabinet, pursuant to KRS 143.090. However, if Road Fund resources are not sufficient to meet lease rental payments, the additional amount required to meet the obligation shall be transferred from the proceeds of the tax levied on the severance or processing of coal by KRS 143.020.

3. Included in the above Road Fund appropriation is $140,705,400 in fiscal year 2002-2003 and $121,802,000 in fiscal year 2003-2004 for Economic Development Road lease rental payments relating to projects financed by Economic Development Road Revenue Bonds previously issued by the Turnpike Authority of Kentucky.

4. Any moneys not required to meet lease-rental payments or to meet the administrative costs of the Turnpike Authority shall be transferred to the State Construction account.

5. Notwithstanding KRS 175.505, no portion of the revenues to the state Road Fund provided by the adjustments in KRS 138.220(2), excluding KRS 177.320 and 177.365, shall accrue to the Debt Payment Acceleration Fund account during the 2002-2004 biennium.

g. General Administration and Support

	2002-03	2003-04
Restricted Funds	29,050,000	29,050,000
Road Fund	69,922,100	75,250,200
Total	98,972,100	104,300,200

Included in the above Road Fund appropriation is $7,165,600 in fiscal year 2002-2003 and $7,335,500 in fiscal year 2003-2004 for debt service for previously authorized bonds to construct a new Transportation Cabinet Office Building and parking structure.

h. Judgments

Road Fund resources required to pay judgments shall be transferred from the State Construction Account at the time when actual payments must be disbursed from the State Treasury.

Notwithstanding KRS 45.229, any funds not expended by June 30, 2002, and June 30, 2003, shall not lapse and shall carry forward to the next fiscal year.

TOTAL - TRANSPORTATION CABINET

	2001-02	2002-03	2003-04
General Fund		4,875,300	4,875,300
Restricted Funds		105,002,300	103,075,100
Federal Funds		527,604,300	526,467,000
Road Fund	49,626,000	1,056,205,300	1,087,444,300
TOTAL	49,626,000	1,693,687,200	1,721,861,700

Q. WORKFORCE DEVELOPMENT CABINET

Budget Units

96. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	2002-03	2003-04
General Fund	1,145,900	1,390,100
Restricted Funds	6,661,200	6,696,400
Federal Funds	190,300	175,400
Total	7,997,400	8,261,900

97. TECHNICAL EDUCATION

	2001-02	2002-03	2003-04
General Fund		23,251,700	23,517,100
Restricted Funds	1,393,000	20,087,400	19,672,600
Federal Funds		13,037,200	13,037,200
Total	1,393,000	56,376,300	56,226,900

98. ADULT EDUCATION AND LITERACY

	2001-02	2002-03	2003-04
General Fund		11,096,100	11,272,400
Restricted Funds		11,104,300	11,104,300
Federal Funds	3,646,600	12,624,500	15,149,400
Total	3,646,600	34,824,900	37,526,100

99. VOCATIONAL REHABILITATION

	2002-03	2003-04
General Fund	10,895,200	11,056,400
Restricted Funds	2,911,100	2,955,100
Federal Funds	43,328,800	44,193,800

Total	57,135,100	58,205,300

100. DEPARTMENT FOR THE BLIND

	2002-03	2003-04
General Fund	1,282,800	1,492,600
Restricted Funds	1,948,800	1,979,000
Federal Funds	7,484,600	7,636,700
Total	10,716,200	11,108,300

101. TEACHERS' RETIREMENT-EMPLOYER'S CONTRIBUTION

	2002-03	2003-04
General Fund	4,627,700	4,743,400

The above General Fund appropriation includes the employer match for salaries paid to Workforce Development Cabinet employees who participate in the Teachers' Retirement System. This match shall be forwarded to the Teachers' Retirement System pursuant to KRS 161.560.

102. TRAINING AND REEMPLOYMENT

	2002-03	2003-04
Federal Funds	48,530,400	49,350,300

103. EMPLOYMENT SERVICES

	2001-02	2002-03	2003-04
General Fund		1,580,400	928,800
Restricted Funds		6,601,700	7,443,500
Federal Funds	6,592,900	510,779,300	509,073,300
Total	6,592,900	518,961,400	517,445,600

Notwithstanding KRS 341.835, funds from the Unemployment Insurance Penalty and Interest Account in the Unemployment Compensation Administration Fund shall be used during each fiscal year by the Department for Employment Services to operate employment and training programs.

There is appropriated out of the Federal Funds made available to Kentucky under Section 903 of the Social Security Act, as amended, funds during the 2002-2004 biennium to be used under the direction of the Department for Employment Services for the purpose of administration of its unemployment compensation law and public employment offices.

TOTAL - WORKFORCE DEVELOPMENT CABINET

	2001-02	2002-03	2003-04
General Fund		53,879,800	54,400,800
Restricted Funds	1,393,000	49,314,500	49,850,900
Federal Funds	10,239,500	635,975,100	638,616,100
TOTAL	11,632,500	739,169,400	742,867,800

PART II

CAPITAL PROJECTS BUDGET

Moneys in the Capital Construction Fund are appropriated for the following capital projects subject to the conditions and procedures in this Act. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 2002-2004 biennium. Unless otherwise specified, reauthorized projects shall conform to the original authorization enacted by the General Assembly.

A. GOVERNMENT OPERATIONS

Budget Unit	2002-03	2003-04
1. Treasury Department		
a. Checksealer Equipment - Lease - Additional		
Capital Construction Surplus	63,000	63,000
b. Laser Check Printers - Lease - Additional		
Capital Construction Surplus	257,000	256,000
2. Attorney General		
a. Capital Complex East Franklin County - Lease		
3. Unified Prosecutorial System		

a. Jefferson County - Lease		
4. Governor's Office for Technology		

For the major equipment purchases displayed in this section as funded from Restricted Funds, it is anticipated that these funds shall be transferred from the Operating Budget as funds are available and needed.

a. Statewide Microwave Network Maintenance		
Investment Income	1,500,000	
b. Unified Criminal Justice Information System Reauthorization		
Capital Construction Surplus - Additional1,000,000		
Restricted Funds	805,000	
Total	1,805,000	
c. KY Information Highway Upgrade Expansion - Additional		
Restricted Funds	1,750,000	1,750,000
d. Enterprise Server Complex Upgrade - Additional		
Restricted Funds	2,370,000	2,370,000
e. Disk Storage Upgrade - Additional		
Restricted Funds	887,000	887,000
f. Tape Storage Upgrade - Additional		
Restricted Funds	645,000	645,000
g. Enterprise Messaging		
Restricted Funds	660,000	
h. NASA Grant for Geographic Information Systems		
Restricted Funds (247,000 - FY 2001-2002)		
Federal Funds (1,392,000 - FY 2001-2002)		
Total (1,639,000 - FY 2001-2002)		
i. Franklin County - Lease (100 Fair Oaks)		
5. Kentucky Infrastructure Authority		
a. KIA Fund A - Federally Assisted Wastewater Program		
Bond Funds	6,200,000	

The Bond Funds appropriated above are the required state match for the federal program. The Federal Funds associated with the program are appropriated in the operating budget to comply with the Federal Cash Management Act.

Included in the above Bond Funds appropriation is the funding required in each fiscal year for the state match necessary to receive Federal Funds for the Rural Communities Hardship Grants program administered by the Natural Resources and Environmental Protection Cabinet.

The Kentucky Infrastructure Authority is authorized to expend the cash balances from loan repayments on deposit at the trustee bank for financial assistance, in the form of low-interest loans, to governmental agencies for professional planning and preliminary engineering design work required for eligible Fund A wastewater projects.

b. KIA Fund F - Drinking Water Revolving Loan Program		
Bond Funds	5,000,000	

The Bond Funds appropriated above are the required state match for the federal program. The Federal Funds associated with the program are appropriated in the operating budget to comply with the Federal Cash Management Act.

6. Department of Agriculture		
a. Large Scale Tractor		
Restricted Funds	175,000	
b. Purchase of Agriculture Conservation Easements		
Federal Funds	460,000	
c. Livestock Scale Testing Unit		
Resticted Funds	100,000	

7. Department of Military Affairs

a. Construct Maintenance Shop- London		
Federal Funds	3,640,000	
b. Construct Combined Support Maintenance Shop		
Federal Funds	10,465,000	
c. Construct Army Aviation Support Facility		
Federal Funds	17,500,000	
d. Construct Fixed Wing Aviation Facility		
Federal Funds	4,000,000	
e. Upgrade HVAC Ashland Armory (Guaranteed Energy Performance Contract)		
f. Upgrade HVAC Owensboro Armory (Guaranteed Energy Performance Contract)		
g. Construct Addition to Facilities Building		
Federal Funds	911,000	
h. Maintenance Pool		
Investment Income	1,000,000	1,000,000
i. Maintenance Pool - Air Transportation		
Investment Income	400,000	400,000
j. Maintenance Pool - Bluegrass Station		
Restricted Funds	500,000	500,000
k. Franklin County - Lease		
8. Department for Local Government		
a. Flood Control Matching Fund		
Capital Construction and Equipment Purchase Contingency Fund	300,000	
9. Kentucky Retirement Systems		
a. Franklin County - Lease (Perimeter Park West Number One)		
b. Franklin County - Lease (Perimeter Park West Number Two)		
10. Kentucky River Authority		
a. Kentucky River Storage Enhancements		
Restricted Funds	30,000	2,500,000

B. CABINET FOR ECONOMIC DEVELOPMENT

Budget Unit	2002-03	2003-04
1. Economic Development Projects		
a. Economic Development Bond Pool		
Reauthorization (9,038,000 - Bond Funds)		

Notwithstanding KRS 154.12-100(6), the amounts shown above reflect project amounts.

b. New Economy High-Tech Investment/Construction Pool		
Restricted Funds	10,000,000	10,000,000

The Commissioner of the Office for the New Economy shall determine the amounts to be apportioned between the High-Tech Investment Pool and the High-Tech Construction Pool.

C. EDUCATION

Budget Unit	2002-03	2003-04
1. Department of Education		
a. Security, Fire Alarm, & Energy Systems - Kentucky School for the Blind		
Capital Construction and Equipment Purchase Contingency Fund	450,000	
b. Replace Kerr Hall HVAC - Kentucky School for the Deaf		

Capital Construction and Equipment Purchase Contingency Fund	1,067,000	
c. Maintenance Pool		
Investment Income	785,000	785,000
d. Roof Repair - Kentucky School for the Deaf		
Capital Construction Surplus	520,000	

D. EDUCATION, ARTS, AND HUMANITIES CABINET

Budget Unit	2002-03	2003-04
1. Kentucky Educational Television		
a. Camera Replacement		
Restricted Funds	445,000	
2. Kentucky Center for the Arts		
a. Maintenance Pool		
Investment Income	150,000	150,000
b. Chiller Replacement		
Investment Income	250,000	
c. Water Leak and Window Repair		
Deferred Maintenance	957,000	
3. School Facilities Construction Commission		
Reauthorization (28,000,000 Bond Funds)		
Bond Funds - Additional	100,000,000	

E. CABINET FOR FAMILIES AND CHILDREN

Budget Unit	2002-03	2003-04
1. Administration Services		
a. First City Complex - Lease		
b. Cabinet for Families and Children Justice Offices - Lease		
c. State Street Office (Warren) - Lease		
d. Department for Social Services Office (Kenton) - Lease		
e. Chestnut Centre (Jefferson) - Lease		
f. Mulberry Leasing Office (Hardin) - Lease		
g. Coppins Building Offices (Kenton) - Lease		
h. Water Tower/Hemmer Offices (Campbell) - Lease		
i. Public Service Commission Schenkel Lane (Franklin) - Lease		
j. Department for Community Based Services (Letcher) - Lease		
k. Office of Technology Services (Franklin) - Lease		
l. Department for Community Based Services (Harlan) - Lease		
m. Department for Community Based Services (Henderson) - Lease		
n. Department for Community Based Services (Perry) - Lease		
o. Department for Community Based Services (Shelby) - Lease		
p. Department for Community Based Services (Fayette) - Lease		
q. Department for Community Based Services (Johnson) - Lease		
r. Department for Community Based Services (Boyd) - Lease		
s. Department for Community Based Services (Boone) - Lease		

F. FINANCE AND ADMINISTRATION CABINET

Budget Unit	2002-03	2003-04
1. Department for Administration		
a. Franklin County - Lease (300 Myrtle Avenue)		
2. Department for Facilities Management		

a. Statewide Land Acquisition		
Capital Construction and Equipment		
Purchase Contingency Fund	1,800,000	
b. Capitol Historic Restoration/Asbestos Removal/Repair - State Office Building		
Reauthorization/Reallocation		
(6,000,000 - Bond Funds)		
c. Energy Efficiency in State Government Buildings		
Restricted Funds	1,075,000	
d. Replace Roof - Civic Center		
Investment Income	1,200,000	
e. Maintenance Pool		
Investment Income	5,564,000	4,400,000
Restricted Funds	240,000	100,000
Total	5,804,000	4,500,000
f. Modernize Elevators/Escalators - Various Buildings		
Investment Income	1,300,000	
g. Install Building Security Systems - Various Buildings		
Restricted Funds	750,000	
h. Capital Construction and Equipment Purchase Contingency Fund		
Restricted Funds	3,350,000	
i. Emergency Repair, Maintenance and Replacement Fund		
Restricted Funds	4,195,000	
3. Lottery Corporation		
a. Network Storage and Associated Infrastructure		
Other Funds	930,000	
b. Contingency on Property Adjacent to New Headquarters		
Other Funds	3,500,000	
c. Data Processing, Telecommunication, and Related Equipment		
Other Funds	3,500,000	
d. Potential Buyout of On-Line Gaming System		
Other Funds	18,450,000	
e. Instant Ticket Vending Machine		
Other Funds	900,000	900,000
f. Pull Tab Ticket Vending Machines		
Other Funds	1,500,000	1,500,000

The Kentucky Lottery Corporation may acquire properties related to the consolidation of the Kentucky Lottery's facilities assuming one or more of the properties becomes available for purchase. The purchase price of the properties shall not exceed $2,500,000 in the aggregate.

G. CABINET FOR HEALTH SERVICES

Budget Unit	2002-03	2003-04
1. Department for Mental Health/Mental Retardation Services		
a. Miscellaneous Roof Replacement/Repair Pool		
Capital Construction and Equipment		
Purchase Contingency Fund	700,000	
b. Statewide Chiller Replacement Pool		
Capital Construction and Equipment		
Purchase Contingency Fund	612,000	

	c.	Franklin County - Lease (Fair Oaks Building)		
	d.	Maintenance Pool		
		Investment Income	1,840,000	1,840,000
	e.	Water Piping Replacement System - Eastern State Hospital/Veterans Hospital Relocation		
		Reauthorization & Reallocation		
		Capital Construction Surplus - Additional250,000		
	f.	Sprinkler System - Western State Hospital		
		Capital Construction and Equipment Purchase Contingency Fund	2,200,000	
	g.	Structural Repair/Renovation - Oakwood		
		Capital Construction Surplus	2,009,000	
	h.	Sprinkler System - Central State Hospital		
		Investment Income	850,000	
	i.	Veterans Administration Hospital - Lease		
2.	Public Health			
	a.	Kentucky All Schedule Prescription Electronic Reporting		
		Capital Construction and Equipment Purchase Contingency Fund	1,474,000	

H. JUSTICE CABINET

Budget Unit			2002-03	2003-04
1.	Department of State Police			
	a.	Purchase of Equipment for DNA Analysis		
		Restricted Funds	136,000	136,000
	b.	Maintenance Pool		
		Investment Income	250,000	250,000
2.	Department of Juvenile Justice			
	a.	Combined Residential/Detention Facility - Hardin -Additional		
		Federal Funds	1,000,000	
	b.	Secure Juvenile Detention Facility #3 - Boyd - Additional		
		Federal Funds	500,000	
	c.	Maintenance Pool		
		Investment Income	500,000	500,000
	d.	Purchase Land/Build Gym/Class Cadet Leadership/Education Program		
		Restricted Funds	130,000	
		Federal Funds	1,170,000	
		Total	1,300,000	
	e.	Add Classrooms - Green River Youth Development Center		
		Restricted Funds	60,000	
		Federal Funds	540,000	
		Total	600,000	
3.	Department of Criminal Justice Training			
	a.	Law Enforcement Training Complex - Furniture - Equipment		
		Restricted Funds - (1,800,000 - FY 2001-2002)		
4.	Department of Corrections			
	a.	Replace/Repair Roofs - Green River Correctional Complex		
		Capital Construction and Equipment Purchase Contingency Fund	2,500,000	

b. Replace Underground Steam & Condensate Lines - Blackburn Correctional Complex		
Capital Construction and Equipment Purchase Contingency Fund	1,260,000	
c. Replace Fire Alarm System - Luther Luckett Correctional Complex		
Capital Construction and Equipment Purchase Contingency Fund	1,000,000	
d. Replace Dorm Roofs - Northpoint Training Center		
Capital Construction and Equipment Purchase Contingency Fund	600,000	
e. Replace Four Color Heidelberg Printing Press		
Restricted Funds	900,000	
f. Purchase Plascon Bagmaking Machine		
Restricted Funds	160,000	
g. Various Adult Correctional Institutions (Guaranteed Energy Performance Contract)		
h. Maintenance Pool		
Investment Income	2,000,000	2,000,000
i. New Medium Security Facility/Design Elliott County Phase II Reauthorization and Reallocation (1,800,000 - Bond Funds)		
j. Fayette County - Lease		
5. Justice Administration		
a. Purchase 2 Gas/Liquid Chromatograph Mass/Spectrometers		
Capital Construction Surplus	250,000	

I. LABOR CABINET

Budget Unit	2002-03	2003-04
1. General Administration and Support		
a. Franklin County - Lease (127 South)		
2. Workers' Claims		
a. Franklin County - Lease (1270 Louisville Road)		

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Budget Unit	2002-03	2003-04
1. General Administration and Support		
a. KY Heritage Land Conservation		
Restricted Funds	3,000,000	3,000,000
Federal Funds	1,000,000	1,000,000
Total	4,000,000	4,000,000
b. Maintenance Pool		
Investment Income	115,000	115,000
2. Department for Environmental Protection		
a. Hazardous Waste Management Fund		
Restricted Funds	2,100,000	2,100,000
b. Leaking Underground Storage Tanks		
Restricted Funds	500,000	500,000
c. State-Owned Dam Repair - Additional		
Deferred Maintenance	1,000,000	
d. Franklin County - Lease (Water)		
e. Franklin County - Lease (Air Quality)		

	f.	Construct Deep Well Monitoring - Maxey Flats		
		Capital Construction and Equipment Purchase Contingency Fund	500,000	
3.		Department for Surface Mining Reclamation and Enforcement		
	a.	Franklin County - Lease (Hudson Hollow)		
4.		Kentucky Nature Preserves Commission		
	a.	KY Nature Preserves Acquisition		
		Other Funds	300,000	300,000

K. PERSONNEL CABINET

Budget Unit			2002-03	2003-04
1.		Personnel		
	a.	Franklin County - Lease		
	b.	Computer Equipment - Kentucky Employees' Self-Service Project		
		Capital Construction Surplus	200,000	

L. POSTSECONDARY EDUCATION

Budget Unit			2002-03	2003-04
1.		Council on Postsecondary Education		
	a.	Agency Bond Pool		
		Agency Bonds		66,800,000
	b.	Franklin County - Lease		
	c.	Research Challenge Trust Fund - Endowment Match		
		Bond Funds		100,000,000
	d.	Regional University Excellence Trust Fund - Endowment Match		
		Bond Funds		20,000,000
2.		Kentucky Higher Education Assistance Authority		
	a.	Upgrade Information Technology Systems		
		Restricted Funds		650,000
	b.	Franklin County - Lease		
3.		Eastern Kentucky University		
	a.	Maintenance Pool		
		Restricted Funds		10,000,000
	b.	E & G Life Safety Begley Elevator		
		Restricted Funds		750,000
	c.	Various Buildings (Guaranteed Energy Savings Project)		
	d.	Expand, Upgrade Campus Data Network		
		Restricted Funds		1,000,000
	e.	Purchase Network Education System Component		
		Restricted Funds		2,050,000
	f.	Upgrade Academic Computing		
		Restricted Funds		1,000,000
	g.	Upgrade Administrative Computing System		
		Restricted Funds		1,100,000
	h.	Property Acquisition		
		Restricted Funds		3,000,000
	i.	Replace Student Housing, Brockton		

		Restricted Funds	8,250,000	
	j.	Expand and Renovate Presnell Building		
		Restricted Funds	2,000,000	
	k.	Expand Indoor Tennis Facility		
		Restricted Funds	1,000,000	
	l.	Watts Property (Elmwood) Renovation		
		Restricted Funds	2,000,000	
4.		Kentucky State University		
	a.	Renovate and Expand Student Center		
		Reauthorization		
		Restricted Funds - Additional	4,400,000	
	b.	Young Hall Renovation		
		Reauthorization		
		Restricted Funds - Additional	9,886,000	
	c.	Capital Renewal and Deferred Maintenance Pool		
		Restricted Funds	1,500,000	
	d.	Migrate to Client-Server and Laptop Campus Technology		
		Restricted Funds	860,000	
	e.	Enhance Distance Education		
		Restricted Funds	560,000	
	f.	Extend Fiber Network to South Campus		
		Restricted Funds	806,000	
	g.	Enhance Web Site		
		Restricted Funds	410,000	
	h.	Implement Smart Card Technology		
		Restricted Funds	1,120,000	
	i.	Various Buildings (Guaranteed Energy Savings Project)		
	j.	Cooperative Extension Building Expansion		
		Reauthorization		
		Restricted Funds - Additional	3,224,000	
5.		Morehead State University		
	a.	Capital Renewal and Deferred Maintenance Pool		
		Restricted Funds	3,414,000	3,414,000
	b.	Life Safety: Auxiliary Facilities		
		Restricted Funds	3,000,000	
	c.	Parking Structure		
		Restricted Funds	6,000,000	
	d.	Life Safety: E & G Facilities		
		Restricted Funds	1,350,000	
	e.	Life Safety: Claypool-Young Building		
		Restricted Funds	500,000	
	f.	Americans with Disabilities Act - E & G		
		Restricted Funds	600,000	600,000
	g.	Combs Theatre Area Reclamation		
		Restricted Funds	1,100,000	
	h.	Button Auditorium Renovation		
		Restricted Funds	3,000,000	

	i.	Various Buildings		
		(Guaranteed Energy Savings Project)		
		(FY 2002)		
	j.	Americans with Disabilities Act - Auxiliary		
		Restricted Funds	600,000	600,000
	k.	Land Acquisitions Related to Master Plan		
		Restricted Funds	2,000,000	
	l.	Instructional Technology Initiatives		
		Restricted Funds	2,159,000	
	m.	HPLC-Mass Spectrometer		
		Restricted Funds	140,000	
	n.	Instructional and Support Equipment		
		Restricted Funds	1,334,000	
	o.	Nuclear Magnetic Resonance Equipment		
		Restricted Funds	210,000	
	p.	Network/Infrastructure Resources		
		Restricted Funds	2,250,000	
	q.	Library Automation Resources		
		Restricted Funds	750,000	
	r.	Distance Learning Systems		
		Restricted Funds	2,500,000	
	s.	Compressed Video Resources		
		Restricted Funds	1,891,000	
	t.	Instructional PC's/LANS/Peripherals		
		Restricted Funds	2,500,000	
	u.	Administrative Office Systems		
		Restricted Funds	2,000,000	
	v.	Central Campus Reconstruction		
		Restricted Funds	780,000	
	w.	Student Wellness Center Expansion		
		Restricted Funds	700,000	
	x.	Kentucky Center for Traditional Music - Phase I		
		Restricted Funds	1,000,000	
	y.	Construction of Family Housing Complexes - Phase II		
		Restricted Funds	4,000,000	
	z.	Tour Bus		
		Restricted Funds	400,000	
6.	Murray State University			
	a.	Construct Recreation/Wellness Center		
		Restricted Funds	10,000,000	
	b.	Equine Instruction Facility Addition		
		Restricted Funds	650,000	
	c.	Various Buildings		
		(Guaranteed Energy Savings Project)		
	d.	Campus Electrical Distribution System Upgrade		
		Restricted Funds	10,765,000	
	e.	Construct New Dormitories		
		Restricted Funds	10,154,000	

f.	Woods Hall Mechanical and HVAC System Upgrade	
	Restricted Funds	2,000,000
g.	Land Acquisition	
	Restricted Funds	500,200
h.	Elizabeth Hall Asbestos Ceilings	
	Restricted Funds	450,000
i.	Hester Hall Asbestos Ceilings	
	Restricted Funds	450,000
j.	College Courts Renovation	
	Restricted Funds	3,636,000
k.	College Courts Interiors (12 Buildings) Renovation	
	Restricted Funds	2,000,000
l.	Clark Hall Replacement	
	Restricted Funds	8,000,000
m.	Clark Hall Water Piping, Fixtures Replacement	
	Restricted Funds	600,000
n.	Replace Richmond Hall	
	Restricted Funds	8,000,000
o.	College Courts Electrical System Upgrade	
	Restricted Funds	1,200,000
p.	Franklin Hall Replacement	
	Restricted Funds	8,000,000
q.	Heating and Cooling Plant Boiler Replacement	
	Restricted Funds	666,000
r.	Sparks Hall Electrical System Upgrade	
	Restricted Funds	952,000
s.	Wells Hall Electrical System Upgrade	
	Restricted Funds	600,000
t.	Applied Science Electrical System Upgrade	
	Restricted Funds	850,000
u.	Renovate Sparks Hall HVAC System	
	Restricted Funds	500,000
v.	Special Education HVAC System	
	Restricted Funds	500,000
w.	Pogue Library Electric and HVAC Renovation	
	Restricted Funds	750,000
x.	Business Building Electricity, HVAC and Classrooms Phase I	
	Restricted Funds	1,530,000
y.	General Services HVAC System Renovation	
	Restricted Funds	500,000
z.	E & G Chiller/CFC Compliance Replacement	
	Restricted Funds	585,000
aa.	Doyle Fine Arts HVAC and Energy Replacement/Retrofit	
	Restricted Funds	750,000
ab.	Richmond Hall (Residential College) Renovation	
	Restricted Funds	2,500,000
ac.	Richmond Hall Interior Renovation	
	Restricted Funds	500,000

ad.	Richmond Hall Water Piping/Fixtures Replacement	
	Restricted Funds	600,000
ae.	Clark Hall Interior Renovation	
	Restricted Funds	500,000
af.	Clark Hall Electrical System Renovation	
	Restricted Funds	400,000
ag.	Clark Hall HVAC System Renovation	
	Restricted Funds	1,000,000
ah.	Franklin Hall HVAC System Renovation	
	Restricted Funds	1,000,000
ai.	Franklin Hall Electrical System Renovation	
	Restricted Funds	400,000
aj.	Franklin Hall Water Piping, Fixtures Replacement	
	Restricted Funds	600,000
ak.	Franklin Hall Interior Renovation	
	Restricted Funds	600,000
al.	Springer Hall HVAC and Electrical System Renovation	
	Restricted Funds	2,000,000
am.	Richmond Hall Electrical System Renovation	
	Restricted Funds	400,000
an.	Springer Hall Water Piping, Fixtures Replacement	
	Restricted Funds	800,000
ao.	Springer Hall Interior Renovation	
	Restricted Funds	600,000
ap.	Hart Hall Renovation	
	Restricted Funds	5,000,000
aq.	Hart Hall Chiller, Boilers, Towers Replacement	
	Restricted Funds	1,200,000
ar.	Hart Hall Electrical System Renovation	
	Restricted Funds	650,000
as.	Elizabeth Hall Electrical System Renovation	
	Restricted Funds	550,000
at.	Hester Hall HVAC System Renovation	
	Restricted Funds	1,000,000
au.	Hester Hall Interior Renovation	
	Restricted Funds	700,000
av.	Hester Hall Boiler, Water Heater Replacement	
	Restricted Funds	600,000
aw.	Hester Hall Electrical System Renovation	
	Restricted Funds	580,000
ax.	Winslow Cafeteria Mechanical Equipment Replacement	
	Restricted Funds	500,000
ay.	Winslow Cafeteria Exterior Repair	
	Restricted Funds	500,000
az.	Elizabeth Hall HVAC System Renovation	
	Restricted Funds	1,200,000
ba.	White Hall Domestic Water Piping Replacement	
	Restricted Funds	500,000

bb.	White Hall HVAC System Renovation	
	Restricted Funds	1,000,000
bc.	White Hall Electrical System Renovation	
	Restricted Funds	600,000
bd.	White Hall Interior Renovation	
	Restricted Funds	700,000
be.	Regents Hall Domestic Water Piping Replacement	
	Restricted Funds	500,000
bf.	Regents Hall HVAC System Renovation	
	Restricted Funds	1,000,000
bg.	Regents Hall Electrical System Renovation	
	Restricted Funds	650,000
bh.	Regents Hall Interior Renovation	
	Restricted Funds	800,000
bi.	Hart Hall Interior Renovation	
	Restricted Funds	1,200,000
bj.	Elizabeth Hall Interior Renovation	
	Restricted Funds	700,000
bk.	Capital Renewal and Deferred Maintenance Pool	
	Restricted Funds	16,885,000
bl.	Telephone Switching System Replacement	
	Restricted Funds	1,000,000
bm.	Waterfield Library HVAC and Mechanical Replacement	
	Restricted Funds	500,000
bn.	Campus Network to Gigabit Ethernet Upgrade	
	Restricted Funds	1,000,000
bo.	Lovett Auditorium Shell/Seats Replacement and Repair	
	Restricted Funds	550,000
bp.	350-Ton Chiller - Regional Special Events Center	
	Restricted Funds	400,000
bq.	COLT Ubiquitous Computing	
	Restricted Funds	434,000
br.	Baseball Field and Stadium Sidewalk Light	
	Restricted Funds	600,000
bs.	BVC Electron Microscope - Scanning	
	Restricted Funds	300,000
bt.	BVC Electron Microscope - Transmission	
	Restricted Funds	250,000
bu.	Broadcasting Education Lab Equipment	
	Restricted Funds	200,000
bv.	Business and Public Affairs Equipment	
	Restricted Funds	300,000
bw.	Central On-Line Storage System	
	Restricted Funds	966,000
bx.	College of Science Instructional/Research Equipment	
	Restricted Funds	300,000
by.	Fine Arts Studio Equipment	
	Restricted Funds	419,000

	bz.	ICP-MS Fisions Instruments	
		Restricted Funds	142,000
	ca.	Music Computer Equipment	
		Restricted Funds	250,000
	cb.	Optics Lab Equipment	
		Restricted Funds	170,000
	cc.	Recording/Playback Lab & Instrument	
		Restricted Funds	188,000
7.	Northern Kentucky University		
	a.	New Student Union Design	
		Restricted Funds	1,200,000
	b.	Power Distribution Infrastructure Replacement	
		Restricted Funds	700,000
	c.	Structure in AS and T Center Repair	
		Restricted Funds	500,000
	d.	Welcome Center Renovation	
		Restricted Funds	700,000
	e.	Capital Renewal and Maintenance Projects	
		Restricted Funds	2,315,000
	f.	Land Acquisition	
		Restricted Funds	2,500,000
	g.	Central Plaza Reconstruction	
		Restricted Funds	900,000
	h.	Digital Telecom System	
		Restricted Funds	1,900,000
	i.	Baseball Field Relocation	
		Restricted Funds	1,500,000
	j.	Information Technology Infrastructure	
		Restricted Funds	2,700,000
	k.	Administrative Application System	
		Restricted Funds	2,500,000
	l.	Intramural Sports Field	
		Restricted Funds	750,000
	m.	Coach Bus	
		Restricted Funds	375,000
	n.	Color Press	
		Restricted Funds	235,000
	o.	NMR Spectrometer	
		Restricted Funds	385,000
	p.	Various Buildings (Guaranteed Energy Savings Project)	
8.	University of Kentucky		
	a.	Early Childhood Education Lab	
		Restricted Funds	8,000,000
	b.	Replace Oswald Building Roof	
		Restricted Funds	1,089,000
	c.	Improve Storm Sewer Funkhouser	
		Restricted Funds	1,003,000

d.	Renovate Agriculture Building North Facade		
	Restricted Funds	3,820,000	
e.	Renovate King South Building I		
	Restricted Funds		8,025,000
f.	Upgrade Vivarium, I		
	Restricted Funds		2,000,000
g.	Replace Central Fire Alarm System		
	Restricted Funds		3,000,000
h.	Replace Central Facilities Management System		
	Restricted Funds		3,000,000
i.	Replace Steam and Condensate Pipe		
	Restricted Funds		5,350,000
j.	Improve Central Heating Plant		
	Restricted Funds		2,750,000
k.	Replace Master Clock and Bell System		
	Restricted Funds		1,500,000
l.	Replace High Voltage Wiring		
	Restricted Funds		441,000
m.	Replace Three Elevators MIK Library South		
	Restricted Funds		742,000
n.	Abate Mercury Lexington Campus - Life Safety		
	Restricted Funds	1,000,000	
o.	Upgrade Fume Hoods -LC - Life Safety		
	Restricted Funds	7,015,000	
p.	Upgrade Pharmacy Fume Hood I - Life Safety		
	Restricted Funds	4,300,000	
q.	Abate Asbestos LC II - Life Safety		
	Restricted Funds	500,000	
r.	Improve Indoor Air Quality - Phase I - Life Safety		
	Restricted Funds		500,000
s.	Upgrade HVAC - CAER Ph. III - Life Safety		
	Restricted Funds		450,000
t.	Improve Barker Hall - Life Safety		
	Restricted Funds		500,000
u.	Improve Life Safety, Project Pool		
	Restricted Funds		3,708,000
v.	Renovate Livestock Disease Diagnostics Laboratory		
	Restricted Funds		2,800,000
w.	Improve Handicapped Access, Project Pool		
	Restricted Funds		1,908,000
x.	Improve Plant - Capital Renewal Pool		
	Restricted Funds	16,388,000	
y.	Construct Environmental Institute		
	Restricted Funds		12,604,000
z.	Renovate the COHR in the Dental Building		
	Restricted Funds		1,875,000
aa.	Install Chilled Water Pipe-Clg 2 to Pit		
	Restricted Funds		1,300,000

ab.	Install Cooling Secondary Pumping		
	Restricted Funds		2,250,000
ac.	Renovate Medical Center Library		
	Restricted Funds		2,000,000
ad.	Install Medical Center Chilled Water Loop		
	Restricted Funds		625,000
ae.	Expand Plant Capacity/Infrastructure		
	Restricted Funds	15,000,000	
af.	Renovate Education Space in Medical Science		
	Restricted Funds		2,300,000
ag.	Renovate Outpatient Clinic in Kentucky Clinic		
	Restricted Funds		2,000,000
ah.	Replace Cooling Plant Chillers		
	Restricted Funds		5,000,000
ai.	Install HVAC in Keeneland Hall		
	Restricted Funds		2,962,000
aj.	Renovate Cooperstown - Phase IVA		
	Restricted Funds		1,279,000
ak.	Install HVAC in Jewell Hall		
	Restricted Funds		1,290,000
al.	Install HVAC in Boyd Hall		
	Restricted Funds		1,715,000
am.	Renovate Labs in the Pharmacy Building		
	Restricted Funds		1,400,000
an.	Renovate Cooperstown - Phase IV		
	Restricted Funds		426,000
ao.	Renovate Parking Structure #1		
	Restricted Funds		7,714,000
ap.	Replace Holmes Elevator		
	Restricted Funds		585,000
aq.	Construct Parking Structure		
	Restricted Funds		16,280,000
ar.	Expand Patient Parking in Structure #3		
	Restricted Funds		7,000,000
as.	Install HVAC in Holmes Hall		
	Restricted Funds		1,700,000
at.	Acquire Land		
	Restricted Funds	15,000,000	
au.	Renovate Running Track		
	Restricted Funds	2,500,000	
av.	Renovate Research Labs in Medical Center, I		
	Restricted Funds		750,000
aw.	Fit-up Research Labs - Allied Health Building		
	Restricted Funds		7,000,000
ax.	Renovate Research Labs in Medical Center, II		
	Restricted Funds		900,000
ay.	Renovate Research Space-Nursing Building		

	Restricted Funds		540,000
az.	Upgrade Communication Infrastructure, II		
	Restricted Funds		450,000
ba.	Renovate Research Space Medical Center, I		
	Restricted Funds		800,000
	Federal Funds		700,000
	Total		1,500,000
bb.	Lease Purchase Campus Infrastructure Upgrade		
	Restricted Funds		3,500,000
bc.	Lease Purchase High Performance Research Computer		
	Restricted Funds	5,000,000	
bd.	Lease Purchase Computing Facility Uninterruptable Power Supply		
	Restricted Funds	400,000	
be.	Lease Purchase Large Scale Computing		
	Restricted Funds	3,500,000	
bf.	Lease Purchase Networked Printer		
	Restricted Funds	200,000	
bg.	Lease Purchase Pool		
	Restricted Funds		10,401,000
bh.	Lease Purchase Telephone Switch		
	Restricted Funds		3,000,000
bi.	Lease Purchase Video Switch		
	Restricted Funds	250,000	
bj.	3-D Scaling Device		
	Federal Funds		100,000
bk.	ABI Prism Sequence Detection System		
	Restricted Funds		100,000
bl.	Analytical Biosensor		
	Restricted Funds	275,000	
bm.	Area Detector Diffractometer		
	Restricted Funds	155,000	
	Federal Funds	155,000	
	Total	310,000	
bn.	Automated DNA Sequencer		
	Restricted Funds	130,000	
bo.	Behavioral Monitoring & Analysis System		
	Restricted Funds	150,000	
bp.	Campus Call Auto Dial		
	Restricted Funds	125,000	
bq.	Capillary Genetic Analyzers		
	Restricted Funds	800,000	
br.	Chain Reaction Analyzer		
	Restricted Funds	150,000	
bs.	Chromatograph Mass Spectrometer, I		
	Restricted Funds	250,000	
bt.	Chromatograph Mass Spectrometer, II		
	Restricted Funds	258,000	
bu.	Combination Metabolic Analyzer		

	Restricted Funds	123,000	
bv.	Compressed Video-Hazard		
	Restricted Funds	141,000	
bw.	Confocal Microscope		
	Restricted Funds	325,000	
bx.	Confocal Microscope		
	Restricted Funds	200,000	
by.	Database Testbed		
	Restricted Funds	225,000	
bz.	Digital Router		
	Restricted Funds	100,000	
ca.	DNA Chip Analysis System		
	Restricted Funds		160,000
cb.	DNA Microarray Chip Reader		
	Federal Funds		450,000
cc.	DNA Microarray Facility		
	Restricted Funds	300,000	
cd.	DNA Microarray System		
	Restricted Funds		285,000
ce.	DNA Sequencer		
	Restricted Funds	135,000	
cf.	DNA Sequencer		
	Restricted Funds	125,000	
cg.	DNA Sequencer, I		
	Restricted Funds	134,000	
ch.	DNA Sequencer, II		
	Restricted Funds	158,000	
ci.	DNA Sequencer/Genetic Analyzer		
	Restricted Funds	110,000	
cj.	DNA Synthesizer		
	Restricted Funds	103,000	
ck.	Electron Spin Resonance Instrument		
	Restricted Funds	100,000	
	Federal Funds	100,000	
	Total	200,000	
cl.	Electrophysiologic Analysis System		
	Restricted Funds	207,000	
cm.	Encapsulator		
	Restricted Funds	151,000	
cn.	Environmental Test System		
	Restricted Funds	125,000	
co.	Epi-Fluorescence Microscope		
	Restricted Funds	134,000	
cp.	ESCA-X-Ray Photoelectron Spectroscopy		
	Restricted Funds	400,000	
cq.	Flow Cytometer		
	Restricted Funds	108,000	
cr.	Flow Cytometry Lab Equipment		

	Restricted Funds	375,000	
cs.	Fluorescent Microscope & Image Analyzer		
	Restricted Funds	150,000	
ct.	Fluorescent (Luminescent) Imaging System		
	Restricted Funds	105,000	
cu.	Fluorescence Activated Cell Sorter		
	Restricted Funds	200,000	
cv.	Fluorescent Analyzer		
	Restricted Funds	109,000	
cw.	Fluorescent Activated Cell Sorter		
	Restricted Funds	237,000	
cx.	Fluorescent Cell Sorter		
	Restricted Funds	200,000	
cy.	Forage Harvester System		
	Restricted Funds	150,000	
cz.	Freeze-Thaw Apparatus		
	Restricted Funds		100,000
da.	Garbage Truck Front Loader		
	Restricted Funds	165,000	
db.	Gas Analyzer		
	Restricted Funds	100,000	
dc.	Gas Chromatograph Mass Spectrometer		
	Restricted Funds		101,000
dd.	Gas Chromatograph/MSD		
	Restricted Funds	110,000	
de.	Gas Chromatograph Mass Spectrograph		
	Restricted Funds		186,000
df.	Gene Chip Analysis Machine		
	Restricted Funds		250,000
dg.	Gene Chip Instrument System		
	Restricted Funds	450,000	
dh.	Genetic Analyzer		
	Restricted Funds		140,000
di.	GIS Teaching Lab		
	Restricted Funds	160,000	
dj.	GVG Video Switch		
	Restricted Funds	250,000	
dk.	High Performance Liquid Chromatography		
	Restricted Funds	131,000	
dl.	High Power CO2 Laser		
	Restricted Funds		250,000
dm.	High Pressure Liquid Chromatograph		
	Restricted Funds		100,000
	Federal Funds		100,000
	Total		200,000
dn.	High Resolution Optical Microscope		
	Restricted Funds	110,000	
do.	High Resolution Phosophor Imager		

	Restricted Funds	206,000	
dp.	High Temperature Optical Microscope		
	Restricted Funds		105,000
dq.	High-Speed Signal Processor		
	Federal Funds	150,000	
dr.	Holographic System/Image Analyzer		
	Restricted Funds		110,000
ds.	HPLC Mass Spectrophotometer		
	Restricted Funds	220,000	
dt.	Image Analysis System		
	Restricted Funds	206,000	
du.	Image Analyzer System		
	Restricted Funds	206,000	
dv.	Inductive Coupled Plasma Spectrometer		
	Restricted Funds		110,000
dw.	Inductive Coupled Plasma Unit		
	Restricted Funds	110,000	
dx.	Inductive Coupled Spectrometer System		
	Restricted Funds		120,000
dy.	Interaction Analyzer		
	Restricted Funds	150,000	
dz.	Inverted Microscope-Fluoroscope		
	Restricted Funds	155,000	
ea.	Inverted Scope		
	Restricted Funds		100,000
eb.	Laser Confocal Microscope		
	Restricted Funds	312,000	
ec.	Laser System		
	Restricted Funds	125,000	
	Federal Funds	125,000	
	Total	250,000	
ed.	LCT Flight Mass Spectrometer		
	Restricted Funds	220,000	
ee.	LIMS Bioinformatics Equipment		
	Federal Funds		136,000
ef.	Liquid Chromatograph		
	Restricted Funds		105,000
eg.	Liquid Chromotograph-Mass Spectrometer		
	Restricted Funds		320,000
eh.	Liquid Filling/Stoppering Line		
	Restricted Funds	351,000	
ei.	Mass Spectrometer		
	Restricted Funds		400,000
ej.	MB Ultracentrifuge		
	Restricted Funds	354,000	
ek.	MB/GT Phospho-Imager		
	Restricted Funds	128,000	
el.	Multiphoton Imaging System		

	Restricted Funds	505,000	
em.	Multiphoton Scanning Microscope		
	Restricted Funds	300,000	
en.	Multiunit Microbial Chamber		
	Restricted Funds	250,000	
eo.	NIR Spectrophotometer		
	Restricted Funds	125,000	
ep.	Open MRI Unit		
	Restricted Funds		1,000,000
eq.	Optical Disk Server		
	Restricted Funds		180,000
er.	Patient Classification Equipment		
	Restricted Funds		260,000
es.	Physiology Workstation		
	Restricted Funds	101,000	
et.	Protein Synthesizer		
	Restricted Funds		206,000
eu.	Quadrapole Mass Spectrometer		
	Restricted Funds	360,000	
ev.	Rapid Scanning Monochrometer		
	Restricted Funds		130,000
ew.	Research Grade Light Microscope		
	Restricted Funds		103,000
ex.	Scanning Electron Microscope		
	Restricted Funds	175,000	
ey.	Semi-solid Manufacturing Equipment		
	Restricted Funds		211,000
ez.	Sequence Detection System		
	Restricted Funds		100,000
fa.	Spectograph for Oligonucleotide Analysis		
	Restricted Funds	250,000	
fb.	Studio Recording Equipment		
	Restricted Funds		113,000
fc.	Telemedicine Rural Health		
	Restricted Funds		416,000
fd.	Telemedicine Systems		
	Restricted Funds		600,000
fe.	Terminal Sterilizing Autoclave		
	Restricted Funds		221,000
ff.	Ultracentrifuge		
	Restricted Funds	117,000	
fg.	Virtual Environment Simulator		
	Restricted Funds		125,000
fh.	X-Ray Defractometer		
	Federal Funds		700,000
fi.	Upgrade Scanner System		
	Restricted Funds		500,000
fj.	Upgrade HVAC II - Hospital		

	Restricted Funds	3,500,000	
fk.	Renovate Roach Building 4th Floor - Hospital		
	Restricted Funds	3,990,000	
fl.	Consolidate Imaging Services - Hospital		
	Restricted Funds		3,675,000
fm.	Construct Storage/Distribution Center - Hospital		
	Restricted Funds		1,019,000
fn.	Construct Limited-stay Facility - Hospital		
	Restricted Funds		5,460,000
fo.	Renovate Kitchen I - Hospital		
	Restricted Funds	1,050,000	
fp.	Implement Land Use Plan III - Hospital		
	Restricted Funds	2,625,000	
fq.	Construct Parking Structure III - Hospital		
	Restricted Funds		7,350,000
fr.	Protect Environment II - Hospital		
	Restricted Funds	1,575,000	
fs.	Upgrade Transport Systems IV - Hospital		
	Restricted Funds	735,000	
ft.	Modify Nursing Unit XI - Hospital		
	Restricted Funds	1,100,000	
fu.	Modify Nursing Unit XII - Hospital		
	Restricted Funds		3,500,000
fv.	Upgrade Diagnostic Services XI - Hospital		
	Restricted Funds	1,500,000	
fw.	Construct Outpatient Services III - Hospital		
	Restricted Funds	4,700,000	
fx.	Upgrade Diagnostic Services XII - Hospital		
	Restricted Funds		1,000,000
fy.	Implement Land Use Plan IV - Hospital		
	Restricted Funds		2,500,000
fz.	Upgrade Transport Systems V - Hospital		
	Restricted Funds		800,000
ga.	Expand Data Systems III - Hospital		
	Restricted Funds	700,000	
gb.	Upgrade Support Services II - Hospital		
	Restricted Funds	1,172,000	
gc.	Upgrade Nutrition Services II - Hospital		
	Restricted Funds	1,000,000	
gd.	Upgrade Utility Systems VI - Hospital		
	Restricted Funds		1,500,000
ge.	Upgrade Building/Site IV - Hospital		
	Restricted Funds		800,000
gf.	Expand Parking II - Hospital		
	Restricted Funds	3,200,000	
gg.	Construct Patient Care Facility II - Hospital		
	Restricted Funds	7,638,000	
gh.	Construct Primary Care Center II - Hospital		

	Restricted Funds		10,172,000
gi.	Construct Building Connectors III - Hospital		
	Restricted Funds	3,000,000	
gj.	Construct Outpatient Diagnostic/Treatment Facility II - Hospital		
	Restricted Funds	12,672,000	
gk.	Construct Outpatient Care Facility II - Hospital		
	Restricted Funds		6,172,000
gl.	Upgrade Communication Services - Hospital		
	Restricted Funds		1,000,000
gm.	Construct Business Facility II - Hospital		
	Restricted Funds		9,000,000
gn.	Create Universal Nursing Unit - Hospital		
	Restricted Funds	1,000,000	
go.	Design Patient Bed Tower - Hospital		
	Restricted Funds	10,000,000	
gp.	Expand Surgical Services - Hospital		
	Restricted Funds	3,200,000	
gq.	Accelerator		
	Restricted Funds	1,600,000	
gr.	Angiography Unit		
	Restricted Funds	1,740,000	
gs.	Angiography Unit		
	Restricted Funds	1,276,000	
gt.	ATL Ultrasound		
	Restricted Funds	220,000	
gu.	Biplane Angiography		
	Restricted Funds	1,160,000	
gv.	Cardiac Catheterization Image Management System		
	Restricted Funds	957,000	
gw.	Cardiac Ultrasound		
	Restricted Funds	1,600,000	
gx.	C-Arm X-Ray Unit		
	Restricted Funds	350,000	
gy.	C-Arm X-Ray Unit		
	Restricted Funds	440,000	
gz.	C-Arm X-Ray Unit		
	Restricted Funds	275,000	
ha.	Clinical System Enterprise		
	Restricted Funds	5,800,000	
hb.	Computing Infrastructure Update		
	Restricted Funds	2,500,000	
hc.	CR PAC Server		
	Restricted Funds	275,000	
hd.	CT Scanner		
	Restricted Funds	1,914,000	
he.	CT Scanners		
	Restricted Funds	3,480,000	
hf.	CT Simulator		

	Restricted Funds	1,160,000
hg.	CT Simulator	
	Restricted Funds	1,200,000
hh.	Data Storage Facility	
	Restricted Funds	750,000
hi.	Diagnostic Radiology Unit	
	Restricted Funds	330,000
hj.	Digital Medical Record Expansion	
	Restricted Funds	4,640,000
hk.	Digital Enhancement	
	Restricted Funds	1,085,000
hl.	Digital Imaging	
	Restricted Funds	957,000
hm.	Digital Orbitor Camera	
	Restricted Funds	275,000
hn.	Digital Radiology	
	Restricted Funds	4,060,000
ho.	Digital Radiology	
	Restricted Funds	1,020,000
hp.	EKG Unit	
	Restricted Funds	400,000
hq.	EKG Unit	
	Restricted Funds	440,000
hr.	Electrophysiology Lab	
	Restricted Funds	5,800,000
hs.	EMG Unit	
	Restricted Funds	250,000
ht.	Endoscopic Ultrasound	
	Restricted Funds	440,000
hu.	Endoscopic Video System	
	Restricted Funds	300,000
hv.	Endoscopic Video Ultrasound	
	Restricted Funds	275,000
hw.	Filmless System	
	Restricted Funds	150,000
hx.	Fluoroscopy Unit	
	Restricted Funds	550,000
hy.	General Radiology/Fluoroscopic Unit	
	Restricted Funds	550,000
hz.	General Radiology/Fluoroscopic Unit	
	Restricted Funds	500,000
ia.	Intracardiac Laser	
	Restricted Funds	500,000
ib.	Intracardiac Laser	
	Restricted Funds	550,000
ic.	Intraoperative Radiation Therapy	
	Restricted Funds	1,300,000
id.	Laboratory Analyzer	

	Restricted Funds	500,000
ie.	Linear Accelerator	
	Restricted Funds	2,050,000
if.	Managed Care Enterprise	
	Restricted Funds	1,160,000
ig.	Minimally Invasive Room	
	Restricted Funds	1,700,000
ih.	Mobile CT	
	Restricted Funds	1,100,000
ii.	Mobile CT	
	Restricted Funds	1,000,000
ij.	Mobile Fluoroscopic Unit	
	Restricted Funds	250,000
ik.	Mobile Radiology Unit	
	Restricted Funds	250,000
il.	MRI Upgrade	
	Restricted Funds	500,000
im.	Nuclear Medicine Camera	
	Restricted Funds	1,000,000
in.	OB Ultrasound	
	Restricted Funds	350,000
io.	OR Perioperative IS Document Systems Upgrade	
	Restricted Funds	150,000
ip.	Patient System Enterprise	
	Restricted Funds	4,640,000
iq.	Portal Imaging System	
	Restricted Funds	200,000
ir.	Portal Imaging System	
	Restricted Funds	250,000
is.	QuadRIS Upgrade	
	Restricted Funds	300,000
it.	Rad. Med. Software/System	
	Restricted Funds	350,000
iu.	Radiation Therapy Unit Upgrade	
	Restricted Funds	400,000
iv.	Radiographic Fluoroscopic Unit	
	Restricted Funds	200,000
iw.	Radiographic Fluoroscopic Unit	
	Restricted Funds	150,000
ix.	Radiographic Unit	
	Restricted Funds	400,000
iy.	Radiographic Unit	
	Restricted Funds	350,000
iz.	Radiology Ultrasound	
	Restricted Funds	440,000
ja.	SPECT System	
	Restricted Funds	1,000,000
jb.	Steam Autoclave	

		Restricted Funds	450,000
	jc.	Sterrad Sterilizer	
		Restricted Funds	450,000
	jd.	Surgical C-Arm (ISS) System	
		Restricted Funds	650,000
	je.	Surgical Laser	
		Restricted Funds	500,000
	jf.	Surgical Microscope	
		Restricted Funds	500,000
	jg.	Teleradiology	
		Restricted Funds	200,000
	jh.	Ultrasound Image Management	
		Restricted Funds	800,000
	ji.	Upgrade - HIS Computing Facility	
		Restricted Funds	2,900,000
	jj.	Upgrade for Servers	
		Restricted Funds	800,000
	jk.	Vascular Ultrasound	
		Restricted Funds	300,000
	jl.	Vascular Ultrasound	
		Restricted Funds	900,000
	jm.	Washer	
		Restricted Funds	350,000
	jn.	Various Buildings (Guaranteed Energy Savings Project)	
	jo.	Center for Rural Health	
		Reauthorization ($10,100,000 - Bond Funds)	
		Federal Funds - Additional	2,000,000
9.	University of Louisville		
	a.	Expand - Research Resources Center	
		Restricted Funds	2,596,000
		Other Funds	7,787,000
		Total	10,383,000
	b.	Property Acquisition	
		Restricted Funds	1,300,000
	c.	Construct - Boathouse for Women's Rowing	
		Other Funds	2,488,000
	d.	Field Turf - Practice Field Facility	
		Other Funds	750,000
	e.	Expand-Oppenheimer Hall for Social Work	
		Other Funds	5,450,000
	f.	Expand - Cardinal Arena in Student Activities Center	
		Other Funds	4,000,000
	g.	Renovate - Dental Clinic and Sterilization	
		Other Funds	3,637,000
	h.	Renovate - K-Wing 2nd and 4th Floors	
		Restricted Funds	1,040,000
	i.	Expand - Ekstrom Library - New Wing	

	Federal Funds	14,000,000
j.	Construct - Residence Hall - 400 Beds, Phase I	
	Other Funds	19,718,000
k.	Parking Spaces - Health Sciences	
	Restricted Funds	825,000
l.	Renovate - MDR Building, Phase IV	
	Restricted Funds	2,530,000
m.	Renovate - Stoddard Johnston - Married Students	
	Other Funds	5,829,000
n.	Plasmon Resonance Instrument	
	Restricted Funds	250,000
o.	High Resolution Mass Spectrometer	
	Federal Funds	1,150,000
p.	Flow Fluorescence Activated Cell	
	Restricted Funds	130,000
q.	Microcalorimeter	
	Restricted Funds	140,000
r.	Confocal Microscope	
	Restricted Funds	280,000
s.	Neuro Scan ESI - 128:128 Channel	
	Restricted Funds	100,000
	Federal Funds	40,000
	Total	140,000
t.	Laser Microfabrication Lab	
	Restricted Funds	275,000
	Federal Funds	250,000
	Total	525,000
u.	X-Ray Diffraction Module	
	Restricted Funds	500,000
	Federal Funds	250,000
	Total	750,000
v.	Particle Imaging Velocimetry (PIV)	
	Restricted Funds	167,000
w.	Confocal Laser Scanning Microscope	
	Restricted Funds	400,000
x.	CNC Grinding Machine	
	Restricted Funds	164,000
y.	Load Application System	
	Restricted Funds	240,000
z.	Axis (5) CNC Machining	
	Restricted Funds	150,000
aa.	Color Digital Output Engine	
	Restricted Funds	700,000
ab.	High Volume Output Devices Duplicator	
	Restricted Funds	876,000
ac.	High Speed Graphics Imaging System	
	Restricted Funds	200,000
ad.	Digital Communication Network	

		Restricted Funds	2,000,000
ae.	Network Switching System		
		Restricted Funds	2,000,000
af.	Electronic Research Information System		
		Restricted Funds	2,000,000
ag.	Computer Workstations for Libraries		
		Restricted Funds	466,000
ah.	High Availability Enterprise System		
		Restricted Funds	1,430,000
ai.	Client Server System - File Server		
		Restricted Funds	1,100,000
aj.	Computer Processing System		
		Restricted Funds	2,000,000
ak.	Engineering Scientific Processor		
		Restricted Funds	1,100,000
al.	Supercomputing System		
		Restricted Funds	1,500,000
am.	Upgrade Supercomputer		
		Restricted Funds	400,000
an.	Autonomous Mobility Platform		
		Restricted Funds	400,000
		Federal Funds	60,000
		Total	460,000
ao.	Concave Reality Unit		
		Restricted Funds	250,000
ap.	High Energy Physics Data Analysis		
		Restricted Funds	175,000
		Federal Funds	175,000
		Total	350,000
aq.	Gel Blot Image Analysis System		
		Restricted Funds	145,000
ar.	High Resolution Hybrid Mass Spectrometer		
		Restricted Funds	500,000
		Federal Funds	100,000
		Total	600,000
as.	Digital Micro-Luminography System		
		Restricted Funds	120,000
at.	Electronic Darkroom		
		Restricted Funds	193,000
au.	Laser Desorption/Ionization Mass Spectrometer		
		Restricted Funds	200,000
av.	Molecular Tagging Velocimetry		
		Restricted Funds	245,000
			Restricted Funds
	75,000		
aw.	Peak 3D Equipment		
		Restricted Funds	120,000
ax.	Deposition Attachment - UHV Facility		
		Restricted Funds	500,000

ay.	Electric Injection Molding Machine	
	Restricted Funds	110,000
az.	Materials Testing System	
	Restricted Funds	218,000
ba.	Specialized Central Processing Unit	
	Restricted Funds	500,000
bb.	Protein Chip Analyzer	
	Restricted Funds	200,000
bc.	Nucleic Acid Microchip Analyzer	
	Restricted Funds	200,000
bd.	Analytical Ultracentrifuge	
	Restricted Funds	145,000
be.	High Resolution SEM	
	Restricted Funds	360,000
bf.	Intermediate Voltage Transmission	
	Restricted Funds	550,000
bg.	Micro-Computed Tomography Imager	
	Restricted Funds	480,000
bh.	Automated Synthesizer	
	Restricted Funds	95,000
	Federal Funds	95,000
	Total	190,000
bi.	EPR Spectrometer Update	
	Restricted Funds	60,000
	Federal Funds	65,000
	Total	125,000
bj.	Virtual Reality Display System	
	Restricted Funds	90,000
	Federal Funds	90,000
	Total	180,000
bk.	Various Buildings (Guaranteed Energy Savings Project)	
10.	Western Kentucky University	
a.	A. A. #1 (Diddle Arena) Renovation	
	Restricted Funds (30,300,000 - FY 2002)	
b.	Various Buildings	
	(Guaranteed Energy Savings Project) (FY 2002)	
c.	Capital Renewal and Deferred Maintenance Pool	
	Restricted Funds	10,000,000
d.	Electrical Distribution Phase IV and V Renovation	
	Restricted Funds	2,449,000
e.	Digital Television Transmission System	
	Restricted Funds	1,993,000
	Federal Funds	1,328,000
	Total	3,321,000
f.	Renovate/Construct Telephone Infrastructure	
	Restricted Funds	3,000,000

g.	Van Meter Hall Renovation - Design	
	Restricted Funds	688,000
h.	Central Heat Plant Renovation - Phase I	
	Restricted Funds	1,273,000
i.	Garrett Conference Center Renovation - Design	
	Restricted Funds	858,000
j.	Server	
	Restricted Funds	880,000
k.	Video Server	
	Restricted Funds	800,000
l.	Downing University Center Renovation	
	Restricted Funds	11,320,000
m.	Land Acquisition	
	Restricted Funds	400,000
11.	Kentucky Community and Technical College System	
a.	KCTCS System Office - Lease	
b.	Capital Renewal and Deferred Maintenance Pool	
	Restricted Funds	13,444,000
c.	Upgrade for ADA/Fire Safety - Somerset Community College	
	Restricted Funds	4,585,000
d.	Master Plan Development and Upgrade Pool	
	Restricted Funds	650,000
e.	HVAC System Renovation - Daviess Co. Campus	
	Restricted Funds	2,440,000
f.	Install FiberOptics, Allied Health Building	
	Restricted Funds	558,000
g.	Campus HVAC System Renovation - Somerset Community College	
	Restricted Funds	2,173,000
h.	Replace HVAC System, 77 Addit, Laurel TC	
	Restricted Funds	1,280,000
i.	Enclose Courtyard/Roof - Falkenstine Hall	
	Restricted Funds	1,359,000
j.	Computer Interfaced Distillation Column	
	Restricted Funds	114,000
k.	Helicopter for Aircraft Tech Program - JTC	
	Restricted Funds	271,000
l.	New Telephone System Owensboro - CC & TC	
	Restricted Funds	340,000
m.	Multi-engine Turbine Power Aircraft	
	Restricted Funds	300,000
n.	Diagnostic Medical Sonography Unit	
	Restricted Funds	110,000
o.	Various Buildings (Guaranteed Energy Savings Project)	
p.	Maysville Community College	
	Emergency Repair, Maintenance, and Replacement Fund (3,100,000 - FY 2001-2002)	

q. Henderson Community College - Lease
r. Jefferson Community College - Lease

M. PUBLIC PROTECTION AND REGULATION CABINET

Budget Unit	2002-03	2003-04
1. Department of Insurance		
a. Franklin County - Lease		
2. Public Advocacy		
a. Franklin County - Lease		
3. Housing, Buildings and Construction		
a. Franklin County - Lease		

N. REVENUE

Budget Unit	2002-03	2003-04
1. Office of the Secretary		
a. Franklin County - Lease (200 Fair Oaks)		
b. Franklin County - Lease (100 Fair Oaks)		
c. Franklin County - Lease (Perimeter Park, Louisville Road)		

O. TOURISM DEVELOPMENT CABINET

Budget Unit	2001-02	2002-03	2003-04
The total non-General Fund project costs shown do not reflect additions to the operating budget appropriations.			
1. Kentucky State Fair Board			
a. Purchase DOT Building			
Restricted Funds		500,000	
b. Replace Roofs			
Restricted Funds		1,000,000	1,800,000
c. Maintenance Pool			
Restricted Funds		1,500,000	1,500,000
2. Department of Fish and Wildlife Resources			
a. Land Acquisition Pool			
Restricted Funds		500,000	500,000
b. Maintenance Pool			
Restricted Funds		300,000	300,000
3. Kentucky Horse Park			
a. Maintenance Pool			
Investment Income		475,000	475,000
b. Painting, Fencing, and Infrastructure Repair			
Investment Income		225,000	
4. Department of Parks			
a. Construct Water Plant - Natural Bridge			
Emergency Repair, Maintenance, and Replacement Fund		1,000,000	
b. Maintenance Pool			
Investment Income		5,100,000	4,200,000
c. Campground Electrical/Life Safety Upgrade and Reconstruction			
Investment Income		2,600,000	
d. Construct Wave Barrier - Jenny Wiley			
Reauthorization			

P. TRANSPORTATION CABINET

Budget Unit	2002-03	2003-04
1. General Administration and Support		
a. Construct Martin County Maintenance Facility and Salt Dome		
Road Fund		845,000
b. Replace HVAC System - Franklin County Materials Lab		
Road Fund		600,000
c. Construct and Repair Various Salt Storage Structures		
Road Fund		813,000
d. Asbestos Survey/Abatement/Air Monitoring		
Road Fund		100,000
e. Building Renovation and Emergency Repairs		
Road Fund	840,000	
f. Conduct Paving and Landscaping		
Road Fund		600,000
g. Wastewater Treatment/Water Projects		
Road Fund		200,000
h. HVAC Maintenance and Repair		
Road Fund		800,000
i. Hydraulic Hoists-Heavy Equipment		
Road Fund		300,000
j. Purchase of High Speed Duplicators (Two)		
Road Fund		600,000
k. Purchase Electrical Digital Surveying System		
Road Fund		150,000
l. Purchase Concrete and Geotech Testing System		
Road Fund		146,000
m. Purchase of Core Drill		
Road Fund		210,000
n. Various Parks Roads		
Road Fund	1,500,000	1,500,000
2. Highways		
a. TRNSPRT		
Road Fund	3,500,000	
b. Statewide Transportation Operations Center - (STOC)		
Federal Funds		5,680,000
Road Fund		1,420,000
Total		7,100,000

Q. WORKFORCE DEVELOPMENT CABINET

Budget Unit	2002-03	2003-04
1. General Administration and Program Support		
a. Implement Guaranteed Energy Savings (Guaranteed Energy Performance Contract)		
b. Implement ADA Barrier Removal Pool		
Investment Income	125,000	
c. Maintenance Pool		
Investment Income	425,000	425,000
2. Vocational Rehabilitation		

a. Construct New Sewage Treatment Plant-Perkins Rehabilitation Center
Capital Construction and Equipment
Purchase Contingency Fund 265,000

b. Franklin County - Lease

c. Fayette County - Lease

3. Employment Services

a. DES Facility Renovation Pool
Reauthorization

The General Assembly authorizes the Department to develop and implement a facility replacement and renovation program to improve the quality of Workforce Development Cabinet facilities used by the Department and its clients, and to reduce departmental reliance on lease/rental properties. The Department is directed to coordinate this program with the Secretary of the Finance and Administration Cabinet. Proceeds acquired from the sale, transfer, or other disposition of existing facilities may be expended toward the purchase, construction, renovation, and equipping and furnishing of replacement facilities. Expenditures authorized by this provision are limited to the use of funds solely derived from the sale of Cabinet-owned facilities, which equity rights are shared between both the state and the federal government. Any project estimated to cost over $400,000 shall be reported to the Capital Projects and Bond Oversight Committee by the Secretary of the Finance and Administration Cabinet.

R. COAL SEVERANCE TAX PROJECTS

Notwithstanding KRS 42.4588(2) and (4), the following projects are authorized and appropriated from Local Government Economic Development Fund moneys from the respective single county fund pursuant to KRS 42.4592 for public purposes in the following coal-producing counties in the manner and amounts enumerated. These projects are determined by the General Assembly to be important to the furtherance of the public policy objectives and economic development purposes for which the Local Government Economic Development Program was established. The amounts appropriated are estimates. Actual expenditures and encumbrances shall be limited to the actual receipts realized and available in the respective single county fund. These amounts are comprised of estimated receipts for fiscal year 2002-2003 and fiscal year 2003-2004 in combination with prior unobligated balances in the respective single county funds. To the extent that a county that is authorized to proceed with a project enumerated below receives more single county Local Government Economic Development Fund moneys than are appropriated in this Act, the county may direct those funds to offset a cost overrun on any of the projects enumerated below upon approval of the Commissioner of the Coal County Development Office.

(1) GOVERNMENT OPERATIONS

a. Budget Unit Local Government	2002-03	2003-04
Bell County		
1. City of Pineville - Bell County Water Line Extensions		
Restricted Funds	630,000	
2. City of Pineville - Dorton Branch Sewer Extensions		
Restricted Funds		614,608
3. City of Pineville - Laurel Fork Extension		
Restricted Funds	716,330	
4. U.S. Utilities Inc. - Water Line Upgrade		
Restricted Funds	33,360	
5. U.S. Utilities Inc. - Ambleside Sewer Project		
Restricted Funds		380,000
Boyd County		
6. Boyd County Fiscal Court - Parks/Recreation/Economic Development		
Restricted Funds	100,000	47,870
7. Boyd County Fiscal Court - Water and Sewer Projects		
Restricted Funds	100,000	100,000
8. City of Ashland - Water Treatment Plant Improvements		
Restricted Funds	48,139	
Breathitt County		
9. Breathitt County Water District - Water Line Extensions		
Restricted Funds	500,000	781,804

10.	City of Jackson - Water Treatment Plant Expansions		
	Restricted Funds	600,000	
Carter County			
11.	Carter County - Fire Departments		
	Restricted Funds		60,000
12.	Grayson Utility Commission - Water Treatment Plant		
	Restricted Funds	50,000	107,018
13.	Northeast Industrial Authority - Spec Building at East Park		
	Restricted Funds	133,916	
14.	Rattlesnake Ridge Water District - Water Line Extension		
	Restricted Funds	150,000	
Clay County			
15.	City of Manchester - County-wide Water Line Extension		
	Restricted Funds	392,894	246,400
16.	City of Manchester - Clay County Fiscal Court - Sewer Line and Treatment Plant Upgrade		
	Restricted Funds	300,000	
17.	City of Pineville - Red Bird Mission Water Line Project		
	Restricted Funds	30,000	
18.	North Manchester Water Association - Water Storage Tank		
	Restricted Funds	230,000	
Daviess County			
19.	Daviess County - Fire Station		
	Restricted Funds	240,000	
Floyd County			
20.	City of Prestonsburg - Mountain Top Economic Development		
	Restricted Funds	500,000	
21.	Floyd County Fiscal Court - Fire Protection		
	Restricted Funds	100,000	
22.	Southern Water and Sewer District - Water Line Extensions at Beaver Creek		
	Restricted Funds	441,419	
23.	Southern Water and Sewer District - Water Line Extensions in Southern Floyd County		
	Restricted Funds	1,000,000	
Greenup County			
24.	City of Flatwoods - Senior Citizens Center		
	Restricted Funds		8,000
25.	City of Greenup-Water System		
	Restricted Funds	81,932	31,622
26.	City of Russell - Sewer System		
	Restricted Funds		4,000
27.	City of Worthington - Water System Interconnection		
	Restricted Funds		20,000
28.	City of Wurtland - Water Storage Tank		
	Restricted Funds		11,000
29.	Greenup County - Fire Departments		
	Restricted Funds		24,777

Hancock County			
30.	Hancock County Fiscal Court - Lewisport Industrial Park Water Projects		
	Restricted Funds	91,219	
Harlan County			
31.	Black Mountain Utility District - Putney - Totz/Water Line Extension		
	Restricted Funds	1,250,000	
32.	Black Mountain Utility District - Water Line Extension to Molus/Treatment Plant		
	Restricted Funds	250,000	275,000
33.	City of Evarts - Line Extension with Black Mountain Utility District		
	Restricted Funds	800,000	
34.	City of Harlan - Water Treatment Plant		
	Restricted Funds	500,000	
35.	City of Harlan - Fire Station South		
	Restricted Funds	100,000	
36.	City of Loyall - Equipment and Repair for Fire, Police, and Sewer Departments		
	Restricted Funds		91,000
37.	City of Lynch - Water Line Upgrade		
	Restricted Funds	300,000	316,027
38.	City of Wallins Creek - City Equipment Purchase		
	Restricted Funds		20,000
39.	Green Hills Water District - Water Tank Construction		
	Restricted Funds	125,000	
40.	Green Hills Water District - Water Line to Little Shepard Trail		
	Restricted Funds	35,500	125,000
41.	Harlan County Fiscal Court - Southeast Community College-Paramedic Training		
	Restricted Funds	50,000	50,000
42.	Harlan County PVA - Digital/Mapping		
	Restricted Funds	35,000	
43.	Harlan County/Tri-Cities - Coordination for Community Development		
	Restricted Funds	35,000	35,000
44.	Southeast Community College Foundation - Mine Museum, Golf Course, and Mine Tour		
	Restricted Funds	250,000	250,000
45.	Southeast Community College Foundation - Underground Mine Tour		
	Restricted Funds	500,000	
Henderson County			
46.	Henderson County Water District - Fulton-Yates/Mt. Zion Church Road Loop Water Line		
	Restricted Funds	125,000	
47.	Henderson County Water District - Various Extensions		
	Restricted Funds	230,000	
48.	Henderson County Water District - Posey-Ball Road Water Line		
	Restricted Funds	121,381	
49.	Henderson County Water District - Tank Repair		

Restricted Funds	350,000	
50. Henderson County Water District - Water Line Extension to Kings Mill Road, Birk City Road, and Green River Road		
Restricted Funds	86,355	
51. Henderson Water Utility - Interconnection with Evansville Water		
Restricted Funds	100,000	
Hopkins County		
52. Hopkins County Fiscal Court - Adult Education Initiative		
Restricted Funds	200,000	
Jackson County		
53. Jackson County Fiscal Court - Buncomb Road Water Line		
Restricted Funds	146,242	
54. Jackson County Water Association - Water Supply Lake		
Restricted Funds	100,000	88,256
Johnson County		
55. City of Paintsville - Business/Technical/Incubator		
Restricted Funds	300,000	
56. Johnson County Fiscal Court - Fire Departments		
Restricted Funds	35,000	35,000
57. Paintsville Utility Commission - New Water Treatment Plant		
Restricted Funds	20,757	
58. Paintsville Utility Commission - Extensions in Scattered Locations		
Restricted Funds	344,701	268,734
Knott County		
59. Knott County Artisans Center - Construction		
Restricted Funds	835,987	800,000
60. Knott County Fiscal Court - Jail		
Restricted Funds	600,000	600,000
61. Knott County Fiscal Court - Fire Departments		
Restricted Funds	50,000	50,000
62. Knott County Fiscal Court - Beaver Park Expansions		
Restricted Funds	100,000	
63. Knott County Fiscal Court - Youth Development Center		
Restricted Funds	100,000	
64. Knott County/City of Hazard - Water Line Extension		
Restricted Funds	661,746	
65. Southern Water and Sewer District - Water Line Extension on Right Beaver Creek		
Restricted Funds	3,348,903	674,090
Knox County		
66. Barbourville Utility Commission - Water Tank and Pump Station		
Restricted Funds	250,000	
67. East Knox County Water District - Water Line Extension		
Restricted Funds		307,445
68. Southeast Ky. Rehabilitation Industries (SEKRI) - Renovation of Warner Building Building		
Restricted Funds	330,189	

Laurel County			
69.	Wood Creek Water District - Water Tank and Pump Station		
	Restricted Funds	105,943	111,800
Lawrence County			
70.	Big Sandy Water District - Interconnection		
	Restricted Funds		196,540
71.	City of Louisa Water Project - Water System Improvements		
	Restricted Funds	391,520	
72.	Lawrence County Board of Education - Community Wellness Center		
	Restricted Funds	50,000	50,000
73.	Lawrence County Fiscal Court - Community Center		
	Restricted Funds	200,000	
74.	Lawrence County Volunteer Fire Departments		
	Restricted Funds	10,078	45,922
Lee County			
75.	City of Beattyville - Water Line Extension		
	Restricted Funds	669,775	
Leslie County			
76.	Leslie County Water District - Water Line Extension		
	Restricted Funds	350,000	
77.	Leslie County Water District - Water Line Extension		
	Restricted Funds	659,933	
78.	Leslie County Water District - Water Line Extension		
	Restricted Funds	250,000	
79.	Leslie County Water District - Water Line Extension		
	Restricted Funds	650,000	
80.	Leslie County Water District - Water Line Extension and System Telemetry		
	Restricted Funds	1,030,000	
81.	Leslie County Water District - Water Line Extension		
	Restricted Funds	500,000	
Letcher County			
82.	City of Fleming-Neon - Water Line Extension		
	Restricted Funds	590,000	
83.	City of Jenkins - City Hall Expansion		
	Restricted Funds	85,346	74,654
84.	City of Jenkins - Water Line Extension		
	Restricted Funds	223,466	
85.	City of Jenkins - Downtown Revitalization		
	Restricted Funds	120,000	
86.	City of Jenkins - Mountain Water District - Water Line Extension		
	Restricted Funds	450,000	
87.	City of Whitesburg - Water Line Extension		
	Restricted Funds	1,170,073	331,214
88.	Letcher County Board of Education - Fleming - Neon High School		
	Restricted Funds	100,000	
89.	Letcher County Fiscal Court - Landfill Closure		
	Restricted Funds	500,000	500,000
90.	Letcher County Water and Sewer District - Water Line Extension		

	Restricted Funds	800,000	
McCreary County			
91.	McCreary County Water District - Water Line Extensions		
	Restricted Funds	403,981	46,019
McLean County			
92.	City of Island Water Department - Debt Service on 10" Line		
	Restricted Funds	70,000	
93.	City of Sacramento - Water System Improvements		
	Restricted Funds		75,000
94.	McLean County Fiscal Court - Beechgrove/Island/McLean County/ Sacramento Water		
	Restricted Funds	60,000	65,000
95.	McLean County Fiscal Court - High Speed Data/E-Government		
	Restricted Funds	30,000	
96.	McLean County Fiscal Court - Rumsey Sewer		
	Restricted Funds	200,000	50,000
97.	McLean County Fiscal Court - Extension of Water District		
	Restricted Funds	100,000	
Magoffin County			
98.	Magoffin County Fiscal Court - Administrative Office Building		
	Restricted Funds	600,000	
99.	Magoffin County Fiscal Court - Fire Departments		
	Restricted Funds	100,000	
100.	Magoffin County Water District - Water Line Extensions		
	Restricted Funds	405,000	
101.	Magoffin County Water District - Paintsville New Treatment Plant		
	Restricted Funds	812,046	187,954
Martin County			
102.	City of Warfield - Community Center		
	Restricted Funds	25,000	
103.	Martin County Senior Citizens Center - Equipment		
	Restricted Funds	20,000	
104.	Martin County Sheriff's Office - Equipment		
	Restricted Funds	22,000	
105.	Martin County Volunteer Fire Departments		
	Restricted Funds	28,000	
106.	Martin County Water District - Upgrade/Expansion Water Treatment Plant		
	Restricted Funds	3,122,831	
107.	Martin County Water District - Eastern Area Water Line Extensions		
	Restricted Funds	470,034	
108.	Martin County Water District - Side Hollow Water Line Extensions		
	Restricted Funds	1,033,289	
Menifee County			
109.	Cave Run Water Commission - Water Plant		
	Restricted Funds	237,702	

Muhlenberg County			
110.	Muhlenberg County Fiscal Court - Adult Education Initiative		
	Restricted Funds	100,000	
Ohio County			
111.	Ohio County Fiscal Court - Bluegrass Memorial/Music		
	Restricted Funds	234,517	64,640
112.	Ohio County Water District - Transmission Main		
	Restricted Funds	232,260	
113.	Ohio County Water District - Transmission Main		
	Restricted Funds		232,260
Perry County			
114.	City of Hazard - Robinson - Rowdy Water Line		
	Restricted Funds	1,099,134	
115.	City of Hazard - South Perry County Water Line		
	Restricted Funds	769,702	1,280,800
Pike County			
116.	Breaks Interstate Park - Improvement Project		
	Restricted Funds		1,000,000
117.	City of Elkhorn City - Water Line Extension		
	Restricted Funds		363,204
118.	City of Pikeville - Underground Utilities		
	Restricted Funds	1,000,000	
119.	East Kentucky Exposition Center - Facility Construction		
	Restricted Funds	2,000,000	
120.	East Kentucky Exposition Center - Operations		
	Restricted Funds	150,000	250,000
121.	Fishtrap State Park - Expansion Project		
	Restricted Funds	431,226	1,568,774
122.	Mountain Water District - Lower Shelby Valley Sewer Project		
	Restricted Funds	800,000	
123.	Mountain Water District - Plant Improvements		
	Restricted Funds		366,000
124.	Mountain Water District - Phelps Water Line Extensions		
	Restricted Funds	348,000	
125.	Mountain Water District - Feds Creek Extension		
	Restricted Funds	911,747	
126.	Pike County Fiscal Court - Blackberry Senior Citizens Center		
	Restricted Funds	100,000	
127.	Pikeville Water Department - Water Treatment Improvements		
	Restricted Funds	174,000	
Union County			
128.	City of Morganfield - Raw Water Main		
	Restricted Funds	1,000,000	
129.	Union County Fiscal Court - Sewer Line		
	Restricted Funds		1,000,000
130.	Union County Water District - Water Line Extension		
	Restricted Funds	50,000	
Webster County			

131.	Sebree South Industrial Park - Sewer Line Extension		
	Restricted Funds	800,000	
132.	Webster County Water District - Water Line Extensions		
	Restricted Funds	600,000	
133.	Webster County Water District - Water Tank		
	Restricted Funds	500,000	
Whitley County			
134.	City of Campton - Water Line Extension		
	Restricted Funds		217,673
135.	City of Corbin - Incline Road Water Line Extension		
	Restricted Funds	265,330	
136.	Whitley County Fiscal Court - County Water Line Extensions		
	Restricted Funds		329,300
137.	Whitley County Water District - Nevisdale Water Line Extensions		
	Restricted Funds	252,932	

CAPITAL PROJECTS BUDGET PROVISIONS FOR PART II, CAPITAL PROJECTS

1. All appropriations to existing line-item capital construction projects expire on June 30, 2002, unless reauthorized in this Act with the following exceptions: (1) a construction contract for the project shall have been awarded by June 30, 2002; (2) permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds; and (3) grant or loan agreements, if applicable, shall have been finalized and properly signed by all necessary parties. Notwithstanding the criteria set forth in this section, the disposition of 2000-2002 non-statutory appropriated maintenance pools funded from Capital Construction Investment Income shall remain subject to the provisions of KRS 45.770(4)(c) and (d) with the exception of the Cabinet for Families and Children. To facilitate the transfer of five (5) buildings from the Cabinet for Families and Children to the Finance and Administration Cabinet, it is the intent of the General Assembly that any remaining balance in any currently authorized Cabinet for Families and Children non-bond funded project be credited to the Finance and Administration Cabinet Maintenance Pool. Purchases of major items of equipment require reauthorization if a purchase order has not been executed by June 30, 2002.

2. Bond projects authorized for the first time in this section which have debt service supported by state General Fund appropriations are authorized in the first year of the biennium. The full amount of annualized debt service has been included at the beginning of fiscal year 2003-2004. Therefore, the sale of any permanent bonds to finance these projects shall occur after January 1, 2003.

3. If any authorized capital construction or major equipment projects are canceled, any General Fund appropriated debt service for those same projects shall lapse to the credit of the General Fund.

4. Notwithstanding the provisions of KRS 45.750 to 45.782, the General Assembly has determined that certain individual capital projects identified in this Act as eligible for funding from the Emergency Repair, Maintenance and Replacement Fund, the Capital Construction and Equipment Purchase Contingency Fund or the Deferred Maintenance Fund require a direct appropriation from the Emergency Repair, Maintenance and Replacement Fund, the Capital Construction and Equipment Purchase Contingency Fund and the Deferred Maintenance Fund in this Act. KRS 45.782 notwithstanding, certain of the Deferred Maintenance projects identified in Part II of this Act exceed $400,000 each.

5. Investment income earned from bond proceeds beyond that which is required to satisfy Internal Revenue Service arbitrage rebates and penalties and excess bond proceeds upon the completion of a bond financed capital project may be used to pay debt service according to the Internal Revenue Service Code and accompanying regulations. Notwithstanding the provisions of KRS 48.720, KRS 48.010, or any section of this Act, any funds appropriated but not required to pay debt service because of this fund source substitution shall be credited to the Deferred Maintenance Pool Account each year. Unneeded debt service resulting due to any other circumstance shall lapse in accordance with KRS 48.720, KRS 48.010, and other provisions of this Act except for the following: if the fund balance in the Emergency Repair, Maintenance and Replacement Fund falls below $5,000,000 in fiscal year 2001-2002 or in fiscal year 2002-2003, any debt service lapse necessary to bring the fund balance to $5,000,000 in either of these fiscal years shall be credited to the Emergency Repair, Maintenance and Replacement Fund. If the Emergency Repair, Maintenance and Replacement Fund remains at $5,000,000 or above, the first $2,000,000 in fiscal year 2001-2002 or fiscal year 2002-2003 in debt service lapse shall be deposited to the General Fund Surplus Account for the purpose of paying unbudgeted Necessary Government Expenses. No transfer to the Emergency Repair, Maintenance and Replacement Fund or the General Fund Surplus Account shall be made based on the above provisions if the lapse from other General Fund accounts is insufficient to meet appropriations approved in other parts of this Act.

6. Investment income earned from funds credited to the Technology Trust Fund account in the Finance and Administration Cabinet shall accrue to the Capital Construction and Equipment Purchase Contingency Account established in

KRS 45.770.

7. The Council on Postsecondary Education subheading in this Part includes a project entitled "Agency Bond Pool," (L.1.a.). Agency Bond Pool, $66,800,000 in projects are authorized to be funded from Restricted Funds-supported bonds. This pool provides funding for individual projects to be recommended by the Council on Postsecondary Education to the Secretary of the Finance and Administration Cabinet from the project listings previously identified and recommended by the Council for funding in the 2002-2004 biennium.

The provisions of KRS 45.750 to 45.816 notwithstanding, capital construction projects at institutions of postsecondary education involving no state or Federal Funds may be authorized between regular sessions of the General Assembly if the projects receive prior approval from both the Council on Postsecondary Education and the Secretary of the Finance and Administration Cabinet, and the Capital Projects and Bond Oversight Committee receives prior notification.

8. The Research Challenge Trust Fund-Endowment Match capital project appropriation under the Council on Postsecondary Education (L.1.c.) shall be transferred to the Research Challenge Trust Fund as established in KRS 164.7911 and KRS 164.7917.

9. The Regional University Excellence Trust Fund-Endowment Match capital project appropriation under the Council on Postsecondary Education (L.1.d.) shall be transferred to the Regional University Excellence Trust Fund as established in KRS 164.7911 and KRS 164.7919.

10. Notwithstanding 2000 KY Acts Ch. 549, Part II, 10., pertaining to the Capital Renewal and Maintenance Pool, the matching requirement is extended until June 30, 2004. Each postsecondary education institution may access any unmatched funds allocated from the Capital Renewal and Maintenance Pool to that institution after entering into an agreement with the Council on Postsecondary Education agreeing to fulfill the matching requirement by June 30, 2004. The Council on Postsecondary Education shall develop guidelines for the agreements.

11. Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission under the provisions of KRS 56.440 to 56.590. In addition to the terms and conditions of KRS 154.12-100, administration of the Economic Development Bond program by the Secretary of the Cabinet for Economic Development is subject to the following guideline: project selection shall be documented when presented to the Secretary of the Finance and Administration Cabinet. Included in the documentation shall be the rationale for selection and expected economic development impact.

12. Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following areas: Repair of State-Owned Dams, Land Acquisition, Property Demolition, Guaranteed Energy Savings projects, Purchase of Agricultural Conservation Easements (PACE), Wetland and Stream Mitigation, Phase I Tobacco Settlement Agricultural Development Initiative, Economic Development projects which shall include authorization for the High-Tech Construction Pool and the High-Tech Technology Pool, Infrastructure projects, Employment Services facilities projects authorized in this part of this Act, Asbestos Abatement projects, Technology Trust Fund projects, systems, initiatives, and the Council on Postsecondary Education Agency Bond Pool and Capital Renewal and Maintenance Pool. Any projects estimated to cost over $400,000 and equipment estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee. All moneys transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

13. Notwithstanding KRS 42.560 or any other statute or provision of law to the contrary, all undisbursed funds in the Energy Assistance Trust Fund, the expenditure authority for which expired February 19, 1998, are hereby transferred and appropriated to the Energy Efficiency in State Government Buildings Revolving Loan Fund, as established in KRS 56.772. These funds represent receipts and accumulated interest thereon from the Stripper Well Settlement Agreement under the U.S. Department of Energy Stipper Well Exemption Litigation, as provided in KRS 42.560 to 42.566. These funds are appropriated as Restricted Funds in the Finance and Administration Cabinet's Capital Budget.

14. Notwithstanding the provisions of KRS 154.33-600 to 154.33-609 or any other statute or provision of law to the contrary, all monies appropriated by the 1998 General Assembly and added to or reauthorized by the 2000 General Assembly for the Red Fox golf course are hereby reauthorized and reallocated to a new entity entitled "The Perry/Knott County Recreational Authority"(PKCRA) with the following exception: the $700,000 originally appropriated by the 1998 General Assembly from the Letcher County/Single County Coal Severance tax money is hereby directed to be returned to Letcher County. The PKCRA membership shall be the same as set out in KRS 154.33-603 except that there shall be a total of five members, none of which shall represent Letcher County. This authorization shall supersede any previous authorization by the General Assembly and any memorandum of agreement or understanding that has been entered into among the Commonwealth, Perry, Knott, and Letcher counties.

PART III

GENERAL PROVISIONS

1. Restricted Funds designated in the biennial budget bills are classified in the state financial records and reports as the Agency Revenue Fund, State Enterprise Funds (State Parks, State Fair Board, Insurance Administration, and Kentucky Horse Park), Internal Services Funds (Fleet Management, Computer Services, Correctional Industries, Central Printing, Risk Management, and Property Management), and selected Fiduciary Funds (Unemployment Compensation and Other Expendable Trust Funds). Separate funds records and reports shall be maintained in a manner consistent with the branch budget bills.

The sources of Restricted Funds appropriations in this Act shall include all fees (which includes fees for room and board, athletics, and student activities) and rentals, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments, and other miscellaneous receipts produced or received by a budget unit, except as otherwise specifically provided, for the purposes, use, and benefit of the budget unit as authorized by law. Restricted Funds receipts shall be credited and allotted to the respective fund or account out of which a specified appropriation is made in this Act. All receipts of Restricted Funds shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

The sources of Federal Funds appropriations in this Act shall include federal subventions, grants, contracts, or other Federal Funds received, income from investments, and other miscellaneous federal receipts received by a budget unit, except as otherwise provided, for the purposes, use, and benefit of the budget unit as authorized by law. Federal Funds receipts shall be credited and allotted to the respective fund account out of which a specified appropriation is made in this Act. All Federal Funds receipts shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

2. If receipts received or credited to the Restricted Funds accounts or Federal Funds accounts of a budget unit during fiscal year 2002-2003 or fiscal year 2003-2004, and any balance forwarded to the credit of these same accounts from the previous fiscal year, exceed the appropriation made by specific sum for these accounts of the budget unit as provided in Part I, Operating Budget, of this Act for the fiscal year in which the excess occurs, the excess funds in the accounts of the budget unit shall become available for expenditure for the purpose of the account during the fiscal year only upon compliance with the conditions and procedures specified in KRS 48.400 to 48.800 and this Act, and with the authorization of the State Budget Director of the Office of State Budget Director and approval of the Secretary of the Finance and Administration Cabinet.

Prior to authorizing the appropriation of any excess, unbudgeted Restricted Funds pursuant to this section, the State Budget Director and the Secretary of the Finance and Administration Cabinet shall review the adequacy of the General Fund Surplus Account with respect to its availability to support Necessary Government Expenses. In the event that General Fund Surplus Account moneys are determined by this review to be adequate to meet known or anticipated Necessary Government Expenses during fiscal year 2001-2002 or fiscal year 2002-2003 or fiscal year 2003-2004, respectively, then the appropriation increase may be approved. In the event that the review contemplated in this section indicates that there are insufficient funds available or reasonably estimated to become available to the General Fund Surplus Account to meet known or projected Necessary Government Expenses for the fiscal years enumerated above, the State Budget Director, with the concurrence of the Secretary of the Finance and Administration Cabinet, may disapprove the request for additional Restricted Funds expenditure authority and may direct the excess Restricted Funds identified to the General Fund Surplus Account in order to meet Necessary Government Expense obligations. The results of any review shall be reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.400 to 48.800.

On or before the beginning of each fiscal year, and, if applicable, during each fiscal year, each budget unit shall document and submit to the Finance and Administration Cabinet, the Governor's Office for Policy and Management, and the Legislative Research Commission a record of Restricted Funds and Federal Funds for each budget unit showing the most current estimates of receipts by sources and expenditures by uses, a comparative statement of any revised estimated receipts and proposed expenditures with appropriation sums specified in the enacted Budget of the Commonwealth, and statements which explain the cause, source, and use for a variance which may exist.

Each budget unit shall submit its reports in print and electronic format consistent with the Restricted Funds and Federal Funds records contained in the fiscal biennium 2002-2004 Branch Budget Request Manual and according to the following schedule in each fiscal year: (1) on or before the beginning of each fiscal year; (2) on or before October 1; (3) on or before January 1; and (4) on or before April 1.

3. Funds appropriated in this Act shall not be expended for any purpose not specifically authorized by the General Assembly in this Act nor shall funds appropriated in this Act be transferred to or between any cabinet, department, board, commission, institution, agency, or budget unit of state government unless specifically authorized by the General Assembly in this Act and the provisions of KRS 48.400 to 48.800. Compliance with the provisions of this subsection shall be reviewed and determined by the Interim Joint Committee on Appropriations and Revenue.

4. No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund or Road Fund appropriations contained in this Act unless the obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation considered by the General Assembly, legislative and executive records, and the statutory budget memorandum.

5. Any General Fund or Road Fund appropriation made in anticipation of a lack, loss, or reduction of Federal Funds

shall lapse to the General Fund or Road Fund Surplus Account respectively to the extent the Federal Funds otherwise become available.

6. A state agency entitled to Federal Funds which would represent one hundred percent (100%) of the cost of a program shall conform to KRS 48.730.

7. Pursuant to KRS 48.720, any excess General Fund or Road Fund debt service shall lapse to the respective surplus account unless otherwise directed in this Act.

8. No appropriation from any fund source shall exceed the sum specified in this Act until the agency has documented the necessity, purpose, use, and source, and the documentation has been submitted to the Interim Joint Committee on Appropriations and Revenue for its review and action in accordance with KRS 48.630. Proposed revisions to an appropriation contained in the enacted State/Executive Budget or allotment of an unbudgeted appropriation shall conform to the conditions and procedures of KRS 48.630 and this Act.

Notwithstanding KRS 48.630(3), (4), and (5), any proposed and recommended actions to increase appropriations for funds specified in Section 2 of this Part shall be scheduled consistent with the timetable contained in that section in order to provide continuous and timely budget information.

9. Allotments within appropriated sums for the activities and purposes contained in the enacted State/Executive Budget shall conform to KRS 48.610 and may be revised pursuant to KRS 48.605 and this Act.

10. All statutory continuing appropriations in existence at the time this Act takes effect are discontinued and suspended by this Act except as provided by Chapters 42, 96A, 164, 183, 278, and 441 of the Kentucky Revised Statutes. All statutes and portions of statutes in conflict with any of the provisions of this section, to the extent of the conflict, are suspended, unless otherwise provided by this Act.

11. Except as otherwise explicitly authorized by this Act, nothing in this Act shall be construed to repeal any appropriation made heretofore or hereafter for the fiscal year ending June 30, 2002, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet except as otherwise provided in this Act.

12. All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which the appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500, and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

13. The State Budget Director shall cause the Governor's Office for Policy and Management, within sixty (60) days upon adjournment of the 2002 Regular Session of the General Assembly, to publish a final enacted budget document, styled the Budget of the Commonwealth, based upon the recommended State/Executive Budget, Judicial Budget, and Legislative Budget as enacted by the 2002 Regular Session of the General Assembly as well as other Acts which contain appropriation provisions for the 2002-2004 biennium, and based upon supporting documentation and legislative records as considered by the 2002 Regular Session of the General Assembly and the statutory budget memorandum. This document shall include for each agency and budget unit a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class and for the State/Executive Budget, and any other fiscal data and commentary considered necessary for budget execution by the Governor's Office for Policy and Management and oversight by the Interim Joint Committee on Appropriations and Revenue. The enacted State/Executive Budget shall be revised or adjusted only upon approval by the Governor's Office for Policy and Management as provided in each part of this Act and by KRS 48.400 to 48.800, and upon review and action by the Interim Joint Committee on Appropriations and Revenue.

14. Pursuant to KRS 48.400, the Secretary of the Finance and Administration Cabinet shall monitor and report on the financial condition of the Commonwealth.

15. The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for prorating the administrative costs of the Finance and Administration Cabinet, the Department of Treasury, and the Office of the Attorney General relative to the administration of programs in which there is joint participation by the state and federal governments for the purpose of receiving the maximum amount of participation permitted under the appropriate federal laws and regulations governing the programs. The receipts and allotments under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue prior to any transfer of funds.

16. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Secretary of the Transportation Cabinet. However, if Road Fund resources are not sufficient to meet lease rental payments, the additional amount required for meeting lease rental payments as certified by the Secretary of the Transportation Cabinet under KRS 143.090 shall be transferred from coal severance tax receipts to meet the obligation.

17. Nothing in this Act shall be construed to confirm or ratify, under KRS 12.027 or 12.028, any executive reorganization order unless the executive order was confirmed or ratified by appropriate amendment to the Kentucky Revised Statutes in another Act of the 2002 Regular Session of the General Assembly. If any executive reorganization order issued from sine die adjournment of the 2001 Regular Session to sine die adjournment of the 2002 Regular Session is not confirmed by the 2002 Regular Session of the General Assembly, the Secretary of the Finance and Administration Cabinet shall, in consultation

with agency heads and with notification to the Legislative Research Commission, transfer the balance of funds for any affected program or function for fiscal year 2001-2002 and any related appropriations and funds for each of the next two fiscal years from the budget unit in which the program or function was placed by the executive reorganization order to the budget unit in which the program or function resided prior to the reorganization action or in which it was placed by action of the 2002 Regular Session of the General Assembly. The Legislative Research Commission shall forward the documentation to the appropriate committees.

18. Notwithstanding KRS 61.565, the employer contribution rate for the Kentucky Employees Retirement System shall be as follows: the General Assembly has determined that the employer contribution rate for the Kentucky Employees Retirement System for fiscal year 2002-2003 shall take appropriate notice of the additional revenues credited to the system as a result of the Anthem Blue Cross Blue Shield demutualization agreement. Therefore, from July 1, 2002, through June 30, 2003, the contribution rates shall be no more than three and seventy-six hundreths percent (3.76%) for nonhazardous duty employees, seventeen and six-tenths percent (17.60%) for hazardous duty employees; and seventeen and thirty-seven hundreths percent (17.37%) for employees of the State Police Retirement System. From July 1, 2003, through June 30, 2004, the employer contribution rate shall be no more than five and eighty-nine hundreths percent (5.89%) for nonhazardous duty employees; and eighteen and eighty-four hundreths percent (18.84%) for hazardous duty employees; and twenty-one and fifty-eight hundreths percent (21.58%) for employees of the State Police Retirement System.

19. By August 15, 2003, the Finance and Administration Cabinet, in conjunction with the Consensus Forecast Group, shall provide to each branch of government, pursuant to KRS 48.117, a budget planning report.

20. By October 15, 2003, the Finance and Administration Cabinet shall provide to each branch of government detailed estimates for the General Fund and Road Fund for the current and next two fiscal years of the revenue loss effected by tax expenditures. The Revenue Cabinet shall provide assistance and furnish data which is not restricted by KRS 131.190. "Tax expenditure" means an exemption, exclusion, or deduction from the base of a tax, a credit against the tax, a deferral of a tax, or a preferential tax rate. The estimates shall include for each tax expenditure the amount of revenue loss, a citation of the legal authority for the tax expenditure, the year in which it was enacted, and the tax year in which it became effective.

21. Any appropriation item and sum in Part I to Part XI of this Act and in an appropriation provision in another Act of the 2002 Regular Session which constitute a duplicate appropriation shall be governed by KRS 48.312.

22. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

23. Appropriation items and sums in Part I to Part XI of this Act shall conform to KRS 48.311. If any section, any subsection, or any provision is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

24. For fiscal year 2002-2003 and fiscal year 2003-2004, the first $6,000,000 of any unclaimed prize money held in the corporate operating account of the Kentucky Lottery Corporation shall be added to the pool from which future prizes are to be awarded or used for special prize promotions, and any amount in excess of $6,000,000 shall be transferred to the Affordable Housing Trust Fund established by KRS 198A.710.

25. Notwithstanding KRS 48.700 and the provisions of Part I, II, IX, or X of this Act, $23,450,000 in the undesignated fiscal year 2001-2002 General Fund balance shall be carried forward and available for appropriation in fiscal year 2002-2003, and $57,381,900 in the undesignated fiscal year 2002-2003 General Fund balance shall be carried forward and available for appropriation in fiscal year 2003-2004.

26. The Technology Trust Fund is the Technology Trust Fund established by the 1996 Ky. Acts ch. 380, Part X, to empower Kentucky state government through technology and redesigned business systems, and additional amounts made available and appropriated to it by the 1998 Regular Session in House Bill 321 (1998 Ky. Acts ch. 615, Part X).

Appropriations allotted from the Technology Trust Fund for each project, initiative, or system, as well as all other associated resources made available from regular appropriations for the same purpose from a budget unit shall be transferred and credited to, and accounted for and expended from, a discrete account established for the individual project, initiative, or system item. In addition to the General Fund appropriations in this Part for the Technology Trust Fund, Restricted Funds, Federal Funds, the Road Fund, private funds, and any matching fund appropriations required are appropriated in support of the projects and priorities identified by the Redesign Steering Committee. However, KRS 45.760(14), 45.770, 45.780, and 45.800 notwithstanding, no funds from the Emergency Repair, Maintenance and Replacement Account shall be used for Technology Trust Fund projects, systems, or initiatives.

27. The General Assembly acknowledges that during fiscal year 2000-2001 the General Fund revenues were less than the enacted estimates pursuant to KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in the 2000 Kentucky Acts Chapters 544, 545, and 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 General Fund Budget Reduction Plan for fiscal year 2000-2001 in the 2000 Kentucky Acts Chapter 549, Part VI, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the heads of the executive, judicial, and legislative branches shall revise and reduce appropriations and allotments and other deficit alleviation actions for their respective branch budget units under KRS 48.130(4).

Notwithstanding the provisions of KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised General Fund appropriation levels for the budget units of the Executive Branch identified in General Fund Budget Reduction

Order 01-01 and General Fund Budget Reduction Order 01-02 and confirms and enacts the advances, transfers, and lapses to the General Fund of non-General Fund moneys identified in General Fund Budget Reduction Order 01-01 and General Fund Budget Reduction Order 01-02.

The General Assembly acknowledges that during fiscal year 2001-2002 the General Fund revenues were less than the enacted estimates pursuant to KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in the 2000 Kentucky Acts Chapters 544, 545, and 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 General Fund Budget Reduction Plan for fiscal year 2001-2002 in the 2000 Kentucky Acts Chapter 549, Part VI, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the heads of the executive, judicial, and legislative branches shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding the provisions of KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised General Fund appropriations levels for budget units of the Executive Branch contained in General Fund Budget Reduction Order 02-01 and General Fund Budget Reduction Order 02-02, and confirms and enacts the advances, transfers, and lapses to the General Fund of non-General Fund moneys identified in General Fund Budget Reduction Order 02-01 and General Fund Budget Reduction Order 02-02.

The General Assembly acknowledges that during fiscal year 2000-2001 the Road Fund revenues were less than the enacted estimates in accordance with KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in the 2000 Kentucky Acts Chapter 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 Road Fund Budget Reduction Plan for fiscal year 2000-2001 in the 2000 Kentucky Acts Chapter 549, Part VII, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the head of the Executive Branch shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding the provisions of KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised Road Fund appropriation levels for the budget units of the Executive Branch identified in Road Fund Budget Reduction Order 01-01 and Road Fund Budget Reduction Order 01-02 and confirms and enacts the advances, transfers, and lapses to the Road Fund of non-Road Fund moneys identified in Road Fund Budget Reduction Order 01-01 and Road Fund Budget Reduction Order 01-02.

The General Assembly acknowledges that during fiscal year 2001-2002 the Road Fund revenues were less than the enacted estimates in accordance with KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in the 2000 Kentucky Acts Chapter 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 Road Fund Budget Reduction Plan for fiscal year 2001-2002 in the 2000 Kentucky Acts Chapter 549, Part VII, for state government in accordance with KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the head of the Executive Branch shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding the provisions of KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised Road Fund appropriations levels for budget units of the Executive Branch contained in Road Fund Budget Reduction Order 02-01 and Road Fund Budget Reduction Order 02-02, and confirms and enacts the advances, transfers, and lapses to the Road Fund of non-Road Fund moneys identified in Road Fund Budget Reduction Order 02-01 and Road Fund Budget Reduction Order 02-02.

PART IV

STATE SALARY/COMPENSATION AND EMPLOYMENT POLICY

1. Notwithstanding KRS 18A.010(2), for the 2002-2004 fiscal biennium, the total number of filled permanent positions in the agencies of the Executive Branch is limited to the number authorized in the enacted State/Executive Budget of the Commonwealth for the 2002-2004 fiscal biennium. The provisions of this section do not apply to the employees of the General Assembly, the Legislative Research Commission, or the Court of Justice.

2. On July 1, 2002, the Personnel Cabinet shall establish a record of budgeted permanent and other equivalent positions based upon the enacted State/Executive Budget of the Commonwealth and any adjustments authorized by provisions in this Act. The total number of filled and vacant positions of full-time, part-time, and interim employees shall not exceed the authorized complements pursuant to this section. When an agency head certifies that an emergency employment situation exists for a limited time within a fiscal year, the State Budget Director may approve, and the Secretary of Personnel may authorize, the employment of individuals in addition to the authorized complement for the duration of the limited time period so authorized within the fiscal year. A copy of records, certifications, and actions authorized in this section shall be provided to the Interim Joint Committee on Appropriations and Revenue on a monthly basis.

3. Notwithstanding KRS 18A.355(1), a cost-of-living adjustment of 2.7 percent is provided in fiscal year 2002-2003 and fiscal year 2003-2004 on the base salary or wages of each eligible state employee on their anniversary date.

4. Each budget unit with an authorized personnel complement in excess of the number of positions funded in this Act shall submit a plan to the Office of State Budget Director for approval identifying adequate appropriate funding source(s) prior to filling any positions above the funded number. Upon approval of the State Budget Director, the agency budget may fill the authorized number of positions.

PART V
FUNDS TRANSFER

1. It is the finding of the General Assembly of the Commonwealth of Kentucky that the financial condition of state government requires the following action.

2. Notwithstanding the requirements of the statutes set forth below, there is transferred from the Restricted Funds enumerated below to the General Fund the following amounts in fiscal year 2001-2002, fiscal year 2002-2003, and fiscal year 2003-2004.

		2001-2002	2002-2003	2003-2004
1.	Department of Insurance (KRS 304.2-400)	2,500,000	6,000,000	6,000,000
2.	Fire and Tornado Insurance Fund (KRS 56.095; 56.150; 56.180)		500,000	500,000
3.	Department of Insurance, Kentucky Access (KRS 304.17B-001 to 304.17B-031)		36,000,000	13,000,000
4.	Department of Financial Institutions (KRS 287.485)		1,000,000	2,000,000
5.	Underground Petroleum Storage Tank Environmental Assurance Fund (KRS 224.60-100 to 224.60-160)		71,000,000	20,500,000
6.	Technology Trust Fund (1998 Ky. Acts ch. 615, Part X, Sec. 5 II. 5)		11,600,000	
7.	Flexible Spending Account (KRS 18A.225 (2)(g))		13,000,000	
8.	Health Purchasing Alliance Refund (KRS 304.17A-071)		2,300,000	
10.	State Employees Workers' Compensation Reserve (KRS 18A.370 to KRS 18A.385)		4,000,000	
	Total	2,500,000	145,400,000	42,000,000

PART VI
GENERAL FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130 and 48.600, a General Fund Budget Reduction Plan is enacted for state government in the event of an actual or projected deficit in estimated General Fund revenue receipts of $6,842,050,551 in fiscal year 2001-2002, $7,093,341,900 in fiscal year 2002-2003, and $7,335,500,000 in fiscal year 2003-2004 as modified by related Acts and actions of the General Assembly in an extraordinary or regular session. Direct services, obligations essential to the minimum level of constitutional functions, and other items that may be specified in this Act, are exempt from the requirements of this Plan. Each branch head shall prepare a specific plan to address a proportionate share of the General Fund revenue shortfall applicable to the respective branch. No budget revision action shall be taken by a branch head in excess of the actual or projected deficit.

The Governor, the Chief Justice, and the Legislative Research Commission shall direct and implement reductions in allotments and appropriations only for their respective branch budget units as may be necessary as well as take other measures which shall be consistent with the provisions of this Part and general branch budget bills.

In the event of a revenue shortfall under the provisions of KRS 48.120, General Fund budget reduction actions shall be implemented in the following sequence:

(1) The Local Government Economic Assistance and the Local Government Economic Development Funds shall be adjusted by the Secretary of the Finance and Administration Cabinet to equal revised estimates of receipts pursuant to KRS 42.4582 as modified by the provisions of this Act.

(2) Transfers of excess unappropriated and unbudgeted Restricted Funds other than fiduciary funds shall be applied as determined by the head of each branch for its respective budget units.

(3) Excess General Fund appropriations which accrue as a result of personnel vacancies and turnover, and reduced requirements for operating expenses, grants, and capital outlay shall be determined and applied by the heads of the executive,

judicial, and legislative departments of state government for their respective branches. The branch heads shall certify the available amounts which shall be applied to budget units within the respective branches and shall promptly transmit the certification to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission. The Secretary of the Finance and Administration Cabinet shall execute the certified actions as transmitted by the branch heads.

Branch heads shall take care, by their respective actions, to protect, preserve, and advance the fundamental health, safety, legal and social welfare, and educational well-being of the citizens of the Commonwealth.

(4) Funds available in the Budget Reserve Trust Fund shall be applied in an amount not to exceed twenty-five percent (25%) of the trust fund balance in fiscal year 2002-2003 and fifty percent (50%) of the trust fund balance in fiscal year 2003-2004.

(5) Notwithstanding the provisions of KRS 48.130 and KRS 48.600, if the actions contained in subsections (1) through (4) of this section are insufficient to eliminate an actual or projected revenue shortfall in the enacted General Fund revenue receipts, then the Governor is empowered and directed to take necessary actions with respect to the Executive Branch budget units to balance the budget by such actions conforming with the criteria expressed in the preceding subsection.

PART VII

ROAD FUND BUDGET REDUCTION PLAN

There is established a Road Fund Budget Reduction Plan for fiscal year 2002-2003 and fiscal year 2003-2004. Notwithstanding the provisions of KRS 48.130, in the event of an actual or projected shortfall in estimated Road Fund revenue receipts of $1,097,539,300 in fiscal year 2002-2003 and $1,131,218,300 in fiscal year 2003-2004 as determined by KRS 48.120(3), the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service. No budget revision action shall be taken in excess of the actual or projected deficit.

PART VIII

ROAD FUND SURPLUS EXPENDITURE PLAN

Notwithstanding KRS 48.140 and pursuant to KRS 48.710, there is established a plan of expenditures from the Road Fund Surplus Account. All moneys in the Road Fund Surplus Account shall be deposited in the State Construction Account and utilized to support projects in the 2002-2004 Biennial Highway Construction Program.

PART IX

SPECIAL PROVISIONS

GOVERNMENT OPERATION

1. ATTORNEY GENERAL

a. Deputy and Assistant Attorneys General Salaries: Notwithstanding KRS 15.100, the Attorney General may set the salary for the deputy attorney general and the salary for the two (2) assistant deputy attorneys general at a rate less than that required in KRS 15.100.

b. Health Care Rate Intervention: In addition to such funds as may be appropriated, this Office may request from the Finance and Administration Cabinet, as a necessary government expense, such funds as may be necessary for expert witnesses pursuant to KRS 304.17A-095. The Finance and Administration Cabinet shall approve up to $175,000 for the 2002-2004 biennium for this purpose to the Office of the Attorney General. The Department of Insurance shall provide the Office of the Attorney General any available information to assist in the preparation of a rate hearing pursuant to KRS 304.17A-095.

c. Annual and Sick Leave Service Credit: Notwithstanding any statutory or regulatory restrictions to the contrary, any former employee of the Unified Prosecutorial System who has been appointed to a permanent full-time position under KRS Chapter 18A shall be credited annual and sick leave based on service credited under the Kentucky Retirement System solely for the purpose of computation of sick and annual leave. This provision shall only apply to any new appointment or current employee as of July 1, 1998.

d. Child Sexual Abuse Exams: Notwithstanding KRS 186.1867, the Transportation Cabinet shall review the costs related to the distribution of child victim's license plates. Any revenue received from the sale or renewal of these plates in excess of actual costs shall be transferred to the Child Victims Trust Fund on an annual basis.

2. UNIFIED PROSECUTORIAL SYSTEM

a. Prosecutors Advisory Council Administrative Functions: The Prosecutors Advisory Council shall approve compensation for employees of the Unified Prosecutorial System subject to the appropriation in the Act.

b. Victim Witness Protection Fund: The General Fund appropriation to the Unified Prosecutorial System for the operation of the Victim Witness Protection Program shall not lapse, notwithstanding KRS 45.229, and shall be carried forward into fiscal year 2002-2003 and fiscal year 2003-2004 for the same purpose.

3. AUDITOR OF PUBLIC ACCOUNTS

a. State Agencies Audit Services Contracts: No state agency shall enter into any contract with a non-governmental entity for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within thirty (30) days of receipt of a written request. The agency requesting the audit shall furnish the Auditor of Public Accounts a comprehensive statement of the scope and nature of the proposed audit.

b. Audit Records and Status Reports: The Auditor of Public Accounts shall report in writing each sixty (60) days to the Interim Joint Committee on Appropriations and Revenue the progress of all state audits, together with copies of all completed audits. The auditor shall maintain a record of all time and expenses for each audit or investigation.

c. Charges for Federal, State, and Local Audits: Any additional expense incurred by the Auditor of Public Accounts for auditing Federal Funds, when the audits are mandated by a cognizant federal audit agency, shall be charged to the audited agency when the costs may be charged against Federal Funds. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operation of the office. The Auditor shall maintain a record of all costs and expenditures associated with this provision.

Each quarter, the Auditor of Public Accounts shall notify the Finance and Administration Cabinet concerning the collection status of the fees charged for county audits. If a county government is delinquent in its payment to the Auditor of Public Accounts, the Finance and Administration Cabinet shall withhold any moneys due that county government for the term of one hundred twenty (120) days or until the Auditor of Public Accounts has received full payment from the county. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operations of the office.

The "Single Audit Act of 1984" and the "Single Audit Act Amendments of 1996" (OMB Circular No. A-128) have changed the method by which federal moneys to state agencies are audited. As a result of this federal change, the Auditor of Public Accounts is budgeted to receive additional agency receipts which shall be allotted by the Governor's Office for Policy and Management for programs authorized in the enacted budget for the Auditor of Public Accounts by the 2002 General Assembly, subject to the conditions and procedures provided in this Act.

Any additional expenses incurred by the Auditor of Public Accounts for auditing a state agency upon its request, or when the audit is not required by those standards governing the audit of the Commonwealth's Comprehensive Financial Report, or the provisions contained in the "Single Audit Act of 1984" and the "Single Audit Act Amendments of 1996," shall be charged to the agency requesting the audit.

Any expense incurred by the Auditor of Public Accounts for auditing individual governmental entities shall be charged to the agency receiving audit services when expenses are mutually agreed upon.

4. PERSONNEL BOARD

a. Administrative Hearings Notice: Notwithstanding KRS 13B.050(2), the Personnel Board shall send notices of administrative hearings by first-class mail.

5. LOCAL GOVERNMENT

a. Flood Control Matching Fund Project Review: The Department for Local Government shall transmit a copy of the application for a flood-related project to be funded from the flood control matching fund to the Natural Resources and Environmental Protection Cabinet with a request for a review of the project pursuant to KRS Chapter 151.

6. GOVERNOR'S OFFICE OF VETERANS' AFFAIRS

a. Weekend and Holiday Premium Pay Incentive: The Kentucky Veterans' Center at Wilmore is authorized to continue the weekend and holiday premium pay incentive component of the Personnel Pilot Program for the fiscal biennium 2002-2004.

7. GOVERNOR'S OFFICE OF EARLY CHILDHOOD DEVELOPMENT

a. Notwithstanding KRS 200.151, 2000 Ky. Acts, ch. 549, Part XI, 3, B.1.a. and any other provisions in this Act, Phase I Tobacco Settlement Funds in the amount of $1,000,000 shall lapse to the General Fund at the close of fiscal year 2001-2002.

8. KENTUCKY AGENCY FOR SUBSTANCE ABUSE POLICY

a. Notwithstanding KRS 304.17B-003, 2000 Ky. Acts, Ch. 549, Part XI, C.1.a, and any other provisions in this Act, Phase I Tobacco Settlement Funds in the amount of $1,000,000 shall lapse to the General Fund at the close of fiscal year 2001-2002.

9. KENTUCKY RIVER AUTHORITY

a. Water Withdrawal Fees: The water withdrawal fees imposed by the Kentucky River Authority shall not be subject to state and local taxes. Notwithstanding that portion of the provision of KRS 151.710(10) that directs the Finance and Administration Cabinet to provide administrative services for the Kentucky River Authority, Tier I water withdrawal fees shall be used to support the operations of the Authority and for contractual services for water supply and quality studies.

ECONOMIC DEVELOPMENT

10. OFFICE OF THE SECRETARY

a. New Economy: Funding for the Commissioner for the New Economy: Notwithstanding KRS 154.20-030 to 154.20-570, interest income earned on balances in the High-Technology Construction Pool and the High-Technology Investment Pool shall be used to support the Office of the Commissioner for the New Economy within the Department of Economic Development. Upon the recommendation of the Commissioner, these funds are authorized and appropriated to fund High-Technology Construction/Investment Pool projects.

Notwithstanding KRS 164.6017, the Kentucky Science and Technology Corporation shall submit an annual plan dealing with the allocation of funds from the Science and Technology Funding Program for review and approval by the Council on Postsecondary Education and the Office of the New Economy prior to the Council on Postsecondary Education executing a contract with the Corporation to administer Science and Technology Funding Programs.

Loan repayments received by the High-Technology Construction and High-Technology Investment Pools are appropriated in addition to amounts specified in Part II.

11. FINANCIAL INCENTIVES

Notwithstanding KRS 154.20-267, the total amount of Kentucky Investment Fund Act (KIFA) tax credits available to any single investment fund shall not exceed, in aggregate, $1,000,000 for all investors and all taxable years. Notwithstanding KRS 154.20-267, the total Kentucky Investment Fund Act (KIFA) tax credits available for all investors in all investment funds shall not exceed $3,000,000.

The Department of Financial Incentives shall submit for approval by the Commissioner of the Office of the New Economy all contracts resulting from action taken by the Kentucky Economic Development Authority based on recommendations made by the Commissioner of the Office of the New Economy.

Those projects recommended by the Commissioner for the New Economy to support knowledge-based economy initiatives shall be acted upon by the authority within sixty (60) days following the recommendation by the Commissioner.

DEPARTMENT OF EDUCATION

12. SUPPORT EDUCATION EXCELLENCE IN KENTUCKY (SEEK) PROGRAM

a. Allocation of Support Education Excellence in Kentucky Funds: The General Fund appropriations to the base Support Education Excellence in Kentucky (SEEK) program are intended to provide a base guarantee of $3,066 per student in average daily attendance in fiscal year 2002-2003 and $3,180 per student in average daily attendance in fiscal year 2003-2004 as well as to meet the other requirements of KRS 157.360, notwithstanding KRS 157.360(2)(c).

Nothing in this legislation shall be construed as prohibiting the contracting out of pupil transportation services.

Funds appropriated to the Support Education Excellence in Kentucky program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. The total appropriation for the Support Education Excellence in Kentucky (SEEK) program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 to 157.440. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, upon the written request of the Commissioner of Education and with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the cited sections of the Kentucky Revised Statutes, but any increase of the total appropriation to the Support Education Excellence in Kentucky program is subject to Part III, General Provisions, of this Act, and the provisions of KRS Chapter 48. If funds appropriated to the Support Education Excellence in Kentucky program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, allotments to local school districts may be reduced in accordance with KRS 157.430.

b. Notwithstanding KRS 157.420, the Kentucky Board of Education shall not approve any working budget or salary schedule for local boards of education for either school year 2002-2003 or school year 2003-2004 unless the one hundred eighty-five (185) day salary schedule for certified staff has been adjusted over the previous year's salary schedule by at least two and seven-tenths percent (2.7%) in each school year. Nor shall the Kentucky Board of Education approve any working budget or salary schedule for local boards of education for either school year 2002-2003 or school year 2003-2004 unless the salary schedule for classified staff has been adjusted over the previous year's salary schedule by at least two and seven-tenths percent (2.7%) in each school year; if a local board of education has no salary schedule for classified positions, the wages paid for a position shall be adjusted over the previous year's pay for the same position by at least two and seven-tenths percent (2.7%) in each school year prior to approval by the Kentucky Board of Education of the board's working budget.

13. EXECUTIVE POLICY AND MANAGEMENT

a. Employment of Personnel: Notwithstanding KRS 18A.115, the Department of Education may fill, through memoranda of agreement, not more than fifty percent (50%) of its existing authorized positions below the division director level with individuals employed as school administrators and educators in Kentucky.

14. MANAGEMENT SUPPORT SERVICES

a. Funding for Employer Health and Life Insurance and Retirement Contributions: If the costs for health insurance or life insurance coverage for employees of local school districts exceed the levels of appropriated funds, any unexpended Support Education Excellence in Kentucky appropriations may be used to offset the unbudgeted costs. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. If the appropriations for either local school district teachers' retirement employer match or local district health and life insurance fall short of statutory requirements, any surplus funds from the other appropriation unit may be transferred to the appropriation unit experiencing the shortfall. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. Notwithstanding the provisions of KRS 45.229, any unexpended local school district teachers' retirement employer match funds shall not lapse at the end of fiscal year 2002-2003 but shall be available if needed in fiscal year 2003-2004. Included within the General Fund appropriation for local school district employee health and life insurance is funding to cover costs associated with the Personnel Cabinet's administrative activities including providing life and health insurance for local school district employees. Accordingly, the sum of ($4) per month per employee participating in the state-provided life and health insurance program in fiscal year 2002-2003 and ($4) per month per employee participating in the state-provided life and health insurance program in fiscal year 2003-2004 shall be remitted to the Personnel Cabinet by the Department of Education from the General Fund appropriation for local school district health and life insurance.

b. Kentucky Education Technology System: Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650 to 157.665, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Kentucky Department of Education, shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds.

c. Family Resource and Youth Services Centers: Funds appropriated to establish and support Family Resource and Youth Services Centers shall be transferred in fiscal year 2002-2003 and in fiscal year 2003-2004 to the Cabinet for Families and Children consistent with the intent of KRS 156.497. The Cabinet for Families and Children is authorized to use, for administrative purposes, no more than three percent (3%) of the total funds transferred from the Department of Education for the Family Resource and Youth Services Centers. If a certified person is employed as a director or coordinator of a Family Resource or Youth Services Center, that person shall retain his or her status as a certified employee of the school district.

If seventy percent (70%) or more of the funding level provided by the state is utilized to support the salary of the director of a center, that center shall provide a report to the Cabinet for Families and Children identifying the salary of the director. The Cabinet for Families and Children shall transmit any reports received from Family Resource and Youth Service Centers pursuant to this provision to the Legislative Research Commission.

d. Area Centers and Vocational Departments Funding Formula: All funds appropriated in the budget for supplementing the programs and operations of the area centers and vocational departments of the following districts shall be distributed by a weighted formula that is promulgated in an administrative regulation by the Kentucky Board of Education: Allen County, Ballard County, Bowling Green Independent, Boyd County, Carter County, Christian County, Covington Independent, Edmonson County, Fayette County, Fleming County, Franklin County, Grayson County, Henderson County, Lawrence County, Lewis County, Livingston County, Magoffin County, Marshall County, McCreary County, Newport Independent, Powell County, Simpson County, Trigg County, Union County, and Jefferson County. The weighted formula shall take into consideration the different costs of programs based on requirements for facilities, materials, and equipment to meet program standards, the number of students enrolled, and the number of hours students are enrolled. If the funding formula results in a reduction of funds from the fiscal year 2001-2002 allocation for a center or department that has maintained the same number and category of programs and meets all other criteria, the center shall receive no less than seventy percent (70%) of its fiscal year 2001-2002 allocation.

15. LEARNING SUPPORT SERVICES

a. School Rewards Trust Fund: Distribution of rewards to local schools shall be based on policy established by the Kentucky Board of Education.

b. Kentucky Education Technology System: The School for the Deaf and the School for the Blind shall be fully eligible, along with local school districts, to participate in the Kentucky Education Technology System in a manner that takes into account the special needs of the students of these two (2) schools.

EDUCATION, ARTS, AND HUMANITIES

16. TEACHERS' RETIREMENT SYSTEM

a. Highly Skilled Educators' Retirement Benefits: Notwithstanding KRS Chapter 158 and KRS Chapter 161, salary supplements received by persons selected as highly skilled educators on or after July 1, 2000, shall not be included in the total salary compensation for any retirement benefits to which the employee may be entitled.

17. SCHOOL FACILITIES CONSTRUCTION COMMISSION

a. Local Districts Facilities Plans: Notwithstanding the provisions of KRS 157.622(3), funds allocated by the School Facilities Construction Commission to local school districts for fiscal year 2002-2003 and fiscal year 2003-2004 shall be applied to the projects listed in the most current facility plan approved for the district by the Kentucky Board of Education and the funds shall be applied to projects in the priority order listed in the plan.

FAMILIES AND CHILDREN

18. CABINET FOR FAMILIES AND CHILDREN

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the Statutory Budget Memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet. Phase I Tobacco Settlement funds appropriated to the Cabinet may be used as state match to maximize Federal Funds available through the Child Care Development Fund.

19. COMMUNITY BASED SERVICES

a. Energy Assistance Trust Fund: Notwithstanding KRS 42.560, Restricted Funds may be transferred from the Energy Assistance Trust Fund to the Finance and Administration Cabinet for Guaranteed Energy Performance Contracts in fiscal year

2002-2003.

b. Education for Recipients of Public Assistance: The Department for Community Based Services shall make available to a minimum of seven (7%) percent of total adult public assistance recipients placements in Postsecondary or Vocational education. The recipients shall receive all support services provided to employed public assistance recipients including transportation and child care. The funding source shall be determined by the Cabinet for Families and Children. Work requirements shall include those required by the postsecondary or vocational educational placement as part of the required program of study or financial assistance. If allowable by Federal regulations related to Welfare Reform work participation rates, work requirements shall be limited to those required by the postsecondary or vocational educational placement as part of the required program of study or financial assistance.

c. Notwithstanding KRS 200.151, 2000 Ky. Acts, ch. 549, Part XI, B.2.a., and any other provisions in this Act, Phase I Tobacco Settlement Funds in the amount of $1,500,000 shall lapse to the General Fund at the close of fiscal year 2001-2002.

HEALTH SERVICES

20. CABINET FOR HEALTH SERVICES

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the Statutory Budget Memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet.

21. MEDICAID ADMINISTRATION

a. It is the intent of the General Assembly that the Secretary of the Cabinet for Health Services be permitted to transfer from Medicaid Benefits to Medicaid Administration a total of up to $3,500,000 over the biennium of the General Fund or Restricted Funds appropriations from the Medicaid Benefits budget to the Medicaid Administration budget to be used for technical assistance and costs associated with achieving Health Insurance Portability and Accountability Act (HIPAA) compliance for the Medicaid Management Information System. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Upon concurrence of the State Budget Director and prior to the transfer, the Secretary shall present the proposed plan to the Interim Joint Committee on Appropriations and Revenue.

22. MEDICAID SERVICES - BENEFITS

a. Disproportionate Share Program: Hospitals shall report indigent inpatient and outpatient care for which, under federal law, the hospital is eligible to receive disproportionate share payments.

b. Hospital Indigent Patient Billing: Hospitals shall not bill patients for services where the services have been reported to the Cabinet and the hospital has received disproportionate share payments for the specific services.

c. Provider Tax Information: Any provider who posts a sign or includes information on customer receipts or any material distributed for public consumption indicating that they have paid provider tax shall also post, in the same size typeset as the provider tax information, the amount of payment received from the Department for Medicaid Services during the same period the provider tax was paid. Providers who fail to meet this requirement shall be excluded from the Disproportionate Share Hospital and Medicaid Program. The Office of Inspector General, Division of Community Health Services, shall include this provision in facilities' annual licensure inspection.

d. Disproportionate Share Hospital Payments: Disproportionate Share Hospital payments shall not exceed the maximum amounts established in the Federal Balanced Budget Act of 1997, as amended by the Benefits Improvement and Protection Act of 2000.

e. Quality and Charity Care Trust Fund: No hospital may be reimbursed from both the Quality and Charity Care Trust Fund and the Disproportionate Share Program (DSH) for the same service to the same patient. Any hospital that willfully violates this provision shall be subject to a penalty equal to three (3) times the amount of the improper charge to the funds, which amount shall be credited to the General Fund. The Secretary of the Cabinet for Health Services shall have the authority to secure the patient information as needed from the participating facilities in order to determine compliance and enforce this provision. Each facility billing and receiving reimbursements from the Quality and Charity Care Trust Fund shall be required to identify each patient by Social Security number and indicate whether the patient is classified as indigent or medically needy. Notwithstanding any other provision of this Act or law, in any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement so agree, the General Fund appropriation to fulfill the Commonwealth's contractual obligation relating to the Quality and Charity Care Trust Agreement or any portion thereof, together with any other funds paid to the Quality and Charity Care Trust contractual obligation of the parties, or any portion thereof, shall be transferred to the Department for Medicaid Services as part of its Restricted Funds appropriation for Benefits. In any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement do not agree to transfer all or any portion of the Trust's revenues to the Department of Medicaid Services for Benefits, the Quality and Charity Care Trust shall operate pursuant to its contractual provisions.

f. Kentucky Children's Health Insurance Program: It is the intent of the General Assembly that the Secretary of the Cabinet for Health Services be permitted to transfer from the Medicaid Benefits to the Kentucky Children's Health Insurance Program (KCHIP) General Fund or Restricted Funds appropriations to be used to match the Federal allocation. These transfers may be made to cover both additional regular allocations and redistribution from the federal government. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Upon concurrence of the State Budget Director and prior to the transfer, the Secretary shall make the appropriate appropriation increase request.

g. Intergovernmental Transfers (IGT's): It is the intent of the General Assembly that any funds received through an intergovernmental transfer agreement between the Department of Medicaid Services and other governmental entities, in accordance with a federally approved state plan amendment shall be used to provide for the health and welfare of the citizens of the Commonwealth through the provision of Medicaid Benefits. This allocation shall include but not be limited to funds generated through transfer agreements with county-owned nursing homes, county-owned hospitals, state universities, and other governmental agencies. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Revenues from Intergovernmental Transfers are contingent upon agreement by the parties and, when negotiated, the Secretary shall make the appropriations increase requests pursuant to KRS 48.630.

h. Child Sexual Abuse Exams: The Department for Medicaid Services shall develop a reimbursement schedule to compensate participating health care providers for the full cost of providing child sexual abuse examinations for eligible children to the extent funds are available, effective July 1, 2000. The provisions of this section shall not mandate any services or payments that are not otherwise provided in the Medicaid Benefits budget in Part I, Operating Budget. The reimbursement schedule shall not be reduced under any Managed Care Agreement. The Department may require participating health care providers to meet specific training and experience requirements.

23. DEPARTMENT FOR PUBLIC HEALTH

a. Notwithstanding KRS 200.151, 2000 Ky. Acts, ch. 549, Part XI, B.3.a., and any other provisions in this Act, Phase I Tobacco Settlement Funds in the amount of $1,500,000 shall lapse to the General Fund at the close of fiscal year 2001-2002.

24. DEPARTMENT FOR MENTAL HEALTH/MENTAL RETARDATION

a. Mental health disproportionate share funds are budgeted at the maximum amounts permitted by the Balanced Budget Act of 1997, as amended by the Benefits Improvements and Protection Act of 2000, in the amount of $36,620,100 in fiscal year 2002-2003 and $37,718,700 in fiscal year 2003-2004.

b. Restricted Funds Carry Forward: Any unbudgeted Restricted Funds which carry forward in fiscal year 2002-2003 or fiscal year 2003-04 in the Department for Mental Health/Mental Retardation may be used for grants to Community Mental Health Centers.

c. Notwithstanding KRS 211.478, funds may be transferred from the Traumatic Brain Injury Trust Fund to the Medicaid Services Benefits appropriation for use as state match in funding the Medicaid brain injury waiver, subject to approval by the State Budget Director. Fund transfers shall not exceed $350,000 in fiscal year 2002-2003 and $350,000 in fiscal year 2003-2004, or the actual state share cost of the brain injury waiver in fiscal year 2002-2003 and fiscal year 2003-2004, whichever is less.

25. AGING SERVICES

a. Notwithstanding KRS 205.460, entities contracting with the Cabinet for Health Services to provide essential services under KRS 205.455 and this provision shall provide local match equal to or greater than the amount in effect during fiscal year 2001-2002. Local match may include any combination of materials, commodities, transportation, office space, personal services, or other types of facility services or funds. The Secretary of the Cabinet for Health Services shall prescribe the procedures to certify the local match assurance.

JUSTICE

26. CORRECTIONS MANAGEMENT

a. The General Assembly has determined that the Department of Corrections shall be permitted to adjust appropriations between and among the following appropriation units in fiscal year 2002-2003 and in fiscal year 2003-2004; community services and local facilities, adult correctional institutions, and local jail support. Only adjustments necessary to manage the diverse mix of inmate classifications, custody levels, probation and parole caseloads, and population increases and/or decreases shall be permitted. Any appropriations transferred or otherwise directed between and among these appropriation units shall be documented and justified in writing. No adjustments may be made except upon the prior written concurrence of the State Budget Director of the Governor's Office for Policy and Management who shall report such adjustment to the Interim Joint Committee on Appropriations and Revenue.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

27. GENERAL ADMINISTRATION AND SUPPORT

a. Budget Administration: If the Secretary determines that the functions and responsibilities of the Surface Mining Reclamation and Enforcement budget unit can be performed with fewer positions than budgeted for the biennium, the positions and associated costs may be transferred to the General Administration and Support, Natural Resources, Environmental Protection, and Surface Mining Reclamation and Enforcement budget units for the purpose of employing essential positions, replacing or upgrading information technology equipment, and the replacement of vehicles. The Secretary shall present the proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to transferring any positions and funding.

28. DEPARTMENT FOR ENVIRONMENTAL PROTECTION

a. Notwithstanding KRS 224.50-868, the new tire fee shall continue to be charged and collected in fiscal biennium 2002-2004.

b. Hazardous Waste Assessments: Notwithstanding KRS 224.46-580(7), hazardous waste assessments shall continue to be charged and collected in fiscal biennium 2002-2004.

29. DEPARTMENT FOR SURFACE MINING RECLAMATION AND ENFORCEMENT

a. Surface Coal Mining Permits: The permit block provisions of KRS 350.085(6) shall apply both to surface coal mining and reclamation operations owned or controlled by the applicant, and those operations owning or controlling the applicant. The Cabinet shall continue in effect the current state regulations regarding ownership and control provided that a due process hearing shall be afforded at the time that the Cabinet makes a preliminary determination to impose a permit block.

30. ENVIRONMENTAL QUALITY COMMISSION

a. Administrative Accountability: The Environmental Quality Commission shall be attached to the Secretary's Office, but shall remain a separate budget unit. The Secretary, with the approval of the Commissioners of the Environmental Quality Commission, shall employ a director and other necessary Commission staff who shall serve at the pleasure of the Commission and the Secretary.

PUBLIC PROTECTION AND REGULATION

31. DEPARTMENT OF INSURANCE

a. Notwithstanding 2000 Ky. Acts ch. 549 Part V, 2., 3., the Fire and Tornado Fund shall transfer $500,000 in fiscal year 2002 to the General Fund.

32. SECRETARY'S OFFICE

a. Notwithstanding KRS 224.60-142, the registration time period shall be extended to July 15, 2004, for the owner of any petroleum underground storage tank containing motor fuels who can meet requirements for participation in the financial responsibility account as authorized in KRS 224.60-130(2)(c).

POSTSECONDARY EDUCATION

33. COUNCIL ON POSTSECONDARY EDUCATION

a. Research Challenge Trust Fund Account: The proceeds of the endowment match program authorized in Part II, under the Council on Postsecondary Education budget unit, project L.1.d., shall be invested at the direction of the Council on Postsecondary Education until such time as the Council receives a certification from the President of the University of Kentucky or from the President of the University of Louisville stating that formal commitments have been secured by the respective universities to provide the matching requirements as determined by the Council. Upon receipt of the certification, the Council shall transfer the endowment funds from the account to the respective universities for management and investment by the university foundations if the foundations have been previously created to manage and invest private gifts and donations on behalf of the universities over time, otherwise by the university itself. The proceeds of the Research Challenge Trust Fund Account transferred to the universities shall not be managed or invested by an independent board or foundation separate from the foundations previously created to manage and invest funds on behalf of the respective universities. Only the investment earnings from the endowments created or expanded with funds from the Research Challenge Trust Fund and any required matching funds may be expended.

b. Regional University Excellence Trust Fund: The proceeds of the endowment match program authorized in Part II, under the Council on Postsecondary Education budget unit, project L.1.e., shall be deposited in the Regional University Trust Fund Account and invested at the direction of the Council on Postsecondary Education until such time as the Council receives a certification from the Presidents of Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, and Western Kentucky University stating that formal commitments have been secured by the respective universities to provide the matching requirements as determined by the Council. Upon receipt of the certification, the Council shall transfer the endowment funds from the account to the respective universities for management and investment by the university foundations if the foundations have been previously created to manage and invest private gifts and donations on behalf of the universities over time, otherwise by the university itself. The proceeds of the Regional Excellence Trust Fund transferred to the universities shall not be managed or invested by an independent board or foundation separate from the foundations previously created to manage and invest funds on behalf of the respective universities. Only the investment earnings from the endowments created or expanded with funds from the Regional University Excellence Trust Fund and any required matching funds may be expended.

c. Enrollment Growth and Retention Funding Program: The "Points of Consensus" agreed to by the Council on Postsecondary Education (CPE) and the University Presidents during the 2000-2002 biennium and as presented to the Strategic Committee on Postsecondary Education (SCOPE) indicated that the guidelines for the distribution of the appropriations to the CPE trust funds be specified in advance of the appropriation of such funds. It is recognized that since distribution guidelines for the Enrollment Growth and Retention Funding Program for which funds are appropriated in Part I of this Act have not been approved by the CPE, such distribution guidelines will be developed by the CPE in collaboration with the University Presidents to ensure a fair and equitable plan for distribution that promotes the implementation of the Postsecondary Education Act of 1997. The plan for distribution shall provide for maximum flexibility in the utilization of the funds by the universities. The plan of distribution shall be presented to the SCOPE and the Interim Joint Committee on Appropriations and Revenue for prior review before the Council finalizes the guidelines.

d. Notwithstanding the provisions of KRS 164.7913, 164.7917, 164.7919, and 164.7925, unearned funds from 2000-2002 appropriations for the Enrollment Growth and Retention Program shall be transferred to the Agency Revenue account within the Council on Postsecondary Education for the Enrollment Growth and Retention Funding Program in fiscal year 2002-2003. Included in the above Restricted Funds appropriation is $1,311,500 in fiscal year 2003-2004 for the Enrollment Growth and Retention Funding Program.

e. Notwithstanding the provisions of KRS 164.7913 to 164.7925, interest earnings in the amount of $6,581,700 shall be transferred from the Strategic Investment and Incentive Trust Funds included under these statutes and the trust funds created by 2000 Ky. Acts Ch. 549, Part I, L, 56, to Agency Revenue accounts within the Council on Postsecondary Education budget unit in the following amounts and for the following specified purposes. Included in the Restricted Funds appropriation for the Council on Postsecondary Education in Part I is $100,800 in fiscal year 2002-2003 and $105,500 in fiscal year 2003-2004 for the Minority Student Preparation Program; $187,000 in fiscal year 2002-2003 and $188,400 in fiscal year 2003-2004 for the Southern Regional Education Board Doctoral Scholars Program; $1,000,000 each year of the biennium for the Rural Innovation Program; $1,000,000 in each year of the biennium for the Knowledge-Based Economy Academic Programs; and $2,000,000 in fiscal year 2002-2003 for the Experimental Program to Stimulate Competitive Research (EPSCoR) Program.

f. Included in the appropriations to the Science and Technology Funding Program in Part I is $4,521,600 in each year of the biennium for the Experimental Program to Stimulate Competitive Research (EPSCoR) Program and the Science and Engineering Foundation; $3,000,000 in each year of the biennium for the Kentucky Research and Development Voucher Program; $750,000 in each year of the biennium for the Kentucky Commercialization Fund; $500,000 in each year of the biennium for the Regional Technology Corporations and Satellite Innovation and Commercialization Centers; and $1,000,000 in each year of the biennium for the Rural Innovation Program, notwithstanding the provisions of KRS 164.6027 and 164.6029.

g. Notwithstanding the provisions of KRS 164.476, interest earnings up to $300,000 from the Lung Cancer Research Fund may be transferred to the Agency Revenue accounts of the Council on Postsecondary Education to support the Knowledge-Based Economy Academic Program included in the Restricted Funds appropriation for the Council on Postsecondary Education in Part I.

h. Notwithstanding the provisions of KRS 164.6019, 164.6027, 164.6035, and 164.6043, the unobligated balance of fiscal year 2001-2002 appropriations from the Council on Postsecondary Education, Science and Technology Trust Fund, at the end of fiscal year 2001-2002 shall be transferred to the Office of the Commissioner for the New Economy within the Cabinet for Economic Development. The unobligated balance shall be certified by the Council on Postsecondary Education and submitted to the State Budget Director for final approval prior to the transfer.

i. Notwithstanding the provisions of KRS 164.7913 to 164.7925, the Council on Postsecondary Education may transfer interest earnings from the Strategic Investment and Incentive Trust Fund accounts to the Agency Revenue accounts of the Council, and expend them upon application to and approval from the State Budget Director, and reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.630.

j. Notwithstanding the provisions of KRS 164.6017, the Kentucky Science and Technology Corporation shall submit an annual plan detailing the annual allocation of funds from the Science and Technology Funding Program for review and approval by the Council on Postsecondary Education and the Office of the New Economy within the Cabinet for Economic Development, prior to the Council on Postsecondary Education executing a contract with the Corporation to administer Science and Technology Funding programs.

k. The Council on Postsecondary Education shall transfer $750,000 in interest income from the Student Financial Aid and Advancement Trust Fund to the Kentucky Higher Education Assistance Authority in fiscal year 2002-2003 to assist in the financing of the Kentucky Educational Excellence Scholarship (KEES) program.

l. Notwithstanding the provisions of KRS 164.6021, the funds appropriated in Part I to the Council on Postsecondary Education for the Research and Development Voucher Program may be used to fund the Concept Phase Funding Pool.

m. The Council on Postsecondary Education shall resolve any disputes between or among institutions in the design, planning, or use of each Regional Postsecondary Education Center previously authorized by the General Assembly.

34. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE

a. Included in the General Fund appropriation to the Kentucky Community and Technical College System in Part I is $6,000,000 each year of the biennium for the Postsecondary Workforce Training Program. These funds shall be used for worker training programs on a nonrecurring basis and shall not be used to establish permanent Kentucky Community and Technical College program offerings. Up to $2,100,000 of the Postsecondary Workforce Training Program each year of the biennium may be transferred to the Bluegrass State Skills Corporation within the Cabinet for Economic Development upon a determination by the State Budget Director that other sources of funds are insufficient to meet the employment retention and training needs of the Commonwealth as certified by the Secretary of the Economic Development Cabinet.

35. KENTUCKY STATE UNIVERSITY

a. Included in the Restricted Funds appropriation to Kentucky State University in Part I is $487,800 in fiscal year 2002-2003 and $502,400 in fiscal year 2003-2004 to enable Kentucky State University to fully fund the non-federal matching requirement under the provisions of the Federal Agriculture Research, Extension, and Education Reform Act of 1998. Notwithstanding the provisions of KRS 164.7911 to 164.7925, interest income in the amount of $487,800 in fiscal year 2002-

2003 and $502,400 in fiscal 2003-2004 will be transferred to Kentucky State University by the Council on Postsecondary Education.

TRANSPORTATION CABINET

36. TRANSPORTATION CABINET

a. State Match Provisions: The Transportation Cabinet is authorized to utilize state construction moneys to match federal highway moneys in the event that unanticipated additional federal funds are provided to Kentucky and the state match appropriations have been exhausted.

b. Excess Debt Service/Lease-Rental Appropriations: Any Road Fund appropriations that are not needed to pay lease-rental payments to the Kentucky Turnpike Authority or debt service on the new Transportation Cabinet Office Building shall be credited to the State Construction Account.

c. Federal Aid Highway Funds: If additional federal highway moneys are made available to Kentucky by the United States Congress, the funds shall be used according to the following priority: (a) any demonstration-specific or project-specific money shall be used on the project identified; and (b) all other funds shall be used to insure that projects in the 2002-2004 Biennial Highway Construction Plan are funded. If additional federal moneys remain after these priorities are met, the Transportation Cabinet may select projects from the four (4) year pre-construction program.

d. Demonstration Projects: The Transportation Cabinet is authorized to select up to five (5) design/build demonstration road related projects. For procurement purposes, the Transportation Cabinet shall utilize a qualifications-based bidding process within the context of the provisions of KRS Chapter 176, notwithstanding any conflicting provisions of KRS Chapters 45A, 176, and 177. The Secretary of Transportation shall determine the nature and scope of each design/build project.

e. Pre-financing Road Projects: The Secretary is directed to develop and implement a program to address the policy of the General Assembly to expeditiously initiate and complete projects in the 2002-2004 Biennial Highway Construction Plan. Notwithstanding the provisions of KRS Chapter 45, specifically including provisions of KRS 45.242 and 45.244, the Secretary may concurrently advance projects in the Biennial Highway Construction Plan by employing management techniques that maximize the Cabinet's ability to contract for and effectively administer the project work. The Secretary is directed to continuously ensure that the unspent project and Road Fund balances available to the Transportation Cabinet are sufficient to meet expenditures consistent with appropriations provided.

f. Certified Air Carriers and Cap on Sales and Use Tax: The sales and use tax credit shall be an amount equal to the Kentucky sales and use tax otherwise applicable to aircraft fuel, including jet fuel, purchased by the certificated air carrier for its storage, use, or other consumption during the annual period, less $1,000,000. The $1,000,000 amount shall be increased to reflect the Kentucky sales and use tax on aviation fuel attributable to operations of any other company purchased, merged, acquired, or otherwise combined with the certificated air carrier after the base period. The amount of the increase shall be based on the Kentucky sales and use tax applicable to such aircraft fuel purchased during the twelve (12) month period immediately preceding the purchase, merger, or other acquisition by or combination with the certificated air carrier.

g. Federal Transit Administration Match: Included in the fiscal year 2002-2003 Restricted Fund appropriation is $1,650,000 to match Federal Transit Administration discretionary capital grants to purchase buses and vans for public transit entities. To the extent that these Restricted Funds are not necessary to match additional federal funds for the Federal Transit Administration discretionary capital grants for buses and vans, the Restricted Funds shall revert to the Capital Construction and Equipment Purchase Contingency Account at the close of fiscal year 2003-2004.

WORKFORCE DEVELOPMENT CABINET

37. DEPARTMENT FOR TECHNICAL EDUCATION

a. Participation in the Education Technology Program by Area Vocational Education Centers: Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650 to 157.665, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Kentucky Department of Education, shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds. The School Facilities Construction Commission shall include Area Vocational Education Centers in any offers of assistance to local school districts for technology assistance during the 2002-2004 fiscal biennium.

38. DEPARTMENT FOR EMPLOYMENT SERVICES

The General Assembly authorizes the Department to develop and implement a facility replacement and renovation program to improve the quality of Workforce Development Cabinet facilities used by the Department and its clients, and to reduce departmental reliance on lease/rental properties. The Department is directed to coordinate this program with the Secretary of the Finance and Administration Cabinet and the sale, transfer, or other disposition of existing facilities may be expended toward the purchase, construction, renovation, and equipping and furnishing of replacement facilities. Expenditures authorized by this provision are limited to the use of funds solely derived from the sale of Cabinet-owned facilities, which equity rights are shared between both the state and the federal government. Any project estimated to cost over $400,000 shall be reported to the Capital Projects and Bond Oversight Committee by the Secretary of the Finance and Administration Cabinet.

PART X

GENERAL FUND SURPLUS EXPENDITURE PLAN

1. Pursuant to KRS 48.700 and notwithstanding KRS 48.140, there is established a plan for the expenditure of General Fund surplus moneys pursuant to a General Fund Surplus Plan contained in this Part for fiscal years 2002-2003 and 2003-2004. Pursuant to the enactment of the Surplus Expenditure Plan, General Fund moneys in the General Fund undesignated fund balance in excess of the amount specified in Part III, 25., are appropriated to the Budget Reserve Trust Fund established in KRS 48.705.

2. The Secretary of the Finance and Administration Cabinet shall determine, within thirty (30) days after the close of fiscal year 2001-2002, and the close of fiscal year 2002-2003, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for the Budget Reserve Trust Fund pursuant to the Plan in fiscal year 2002-2003 and fiscal year 2003-2004.

The Secretary of the Finance and Administration Cabinet shall certify the amount of actual General Fund undesignated fund balance available for expenditure to the Legislative Research Commission.

Subsequent to June 30, 2002, funds that are certified as being available in the actual General Fund undesignated fund balance for the General Fund Surplus Account are appropriated for the Budget Reserve Trust Fund in fiscal year 2002-2003 pursuant to the Plan.

PART XI

PHASE I TOBACCO SETTLEMENT

This section of the Act prescribes the policy implementing aspects of the national settlement agreement between the tobacco industry and the collective states as described in KRS 248.701 to KRS 248.727. In furtherance of that agreement, the General Assembly recognizes that the Commonwealth of Kentucky is a party to the Phase I Master Settlement Agreement (MSA) between the Participating Tobacco Manufacturers and forty-six (46) Settling States which provides reimbursement to states for smoking-related expenditures made over time.

1. The Commonwealth's share of the MSA is equal to 1.7611586% of the total settlement amount. Payments under the MSA are to be made to the states in January and April of each year.

2. The total settlement amount to be distributed each payment date is subject to change pursuant to several variables provided in the MSA, including inflation adjustments, volume adjustments, previously settled states adjustments, and the non-participating manufacturers adjustment.

3. The General Assembly has determined that it shall be the policy of the Commonwealth that all Phase I Tobacco Settlement payments shall be deposited to the credit of the General Fund and shall maintain a distinct identity as Phase I Tobacco Settlement payments that shall not lapse to the credit of the General Fund surplus, but shall continue forward from each fiscal year to the next fiscal year to the extent that any balance is unexpended.

4. Based on the current estimates as reviewed by the Consensus Revenue Forecasting Group, the amount of MSA payments expected to be received in fiscal year 2002-2003 is $125,600,000 and in fiscal year 2003-2004 is $109,100,000. It is recognized that payments to be received by the Commonwealth are estimated and are subject to change. Any appropriations made from the estimated receipts are subject to adjustments based on actual receipts as received and certified by the Secretary of the Finance and Administration Cabinet.

a. Early Childhood Development Initiatives: Twenty-five percent (25%) of the MSA payments received in fiscal year 2002-2003, estimated to be $31,400,000, and in fiscal year 2003-2004, estimated to be $27,275,000, is appropriated for Early Childhood Development Initiatives as specified below.

b. Health Care Initiatives: Twenty-five percent (25%) of the MSA payments received in fiscal year 2002-2003, estimated to be $31,400,000, and in fiscal year 2003-2004, estimated to be $27,275,000, is appropriated to the Kentucky Health Care Improvement Fund for health care initiatives as specified below.

c. Agricultural Development Initiatives: Fifty percent (50%) of the MSA payments received in fiscal year 2002-2003, estimated to be $62,800,000, and in fiscal year 2003-2004, estimated to be $54,550,000, is appropriated to the Kentucky Agricultural Improvement Fund to be used for agricultural development initiatives.

A. AGRICULTURAL DEVELOPMENT APPROPRIATIONS

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

1. GOVERNMENT OPERATIONS

			2002-03	2003-04
Budget Unit	Governor's Office of Agricultural Policy	47,688,000	39,434,000	

2. FINANCE AND ADMINISTRATION CABINET

		2002-03	2003-04
Budget Unit	Debt Service	6,112,000	6,116,000

To the extent that revenues sufficient to support the required debt service appropriations are received from the Tobacco

Settlement Program, those revenues shall be transferred from those accounts to the appropriate account of the General Fund to fully fund the aggregate debt service obligation of the General Fund. All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there is a sufficient amount available to be transferred from tobacco supported funding program accounts to other accounts of the General Fund.

3. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

		2002-03	2003-04
Budget Unit	Natural Resources	9,000,000	9,000,000

These funds are appropriated for the Environmental Stewardship Program within the Department for Natural Resources.

	2002-03	2003-04
TOTAL AGRICULTURAL APPROPRIATIONS	62,800,000	54,550,000

B. EARLY CHILDHOOD DEVELOPMENT

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

1. GOVERNMENT OPERATIONS

		2002-03	2003-04
Budget Unit	Governor's Office of Early Childhood Development	2,188.400	2,188,400

2. CABINET FOR FAMILIES AND CHILDREN

		2002-03	2003-04
Budget Unit	Community Based Services	7,262,800	3,581,300

Included in the above appropriation is $7,023,300 in fiscal year 2002-2003 and $3,023,300 in fiscal year 2003-2004 for the Early Childhood Development Program, and $239,500 in fiscal year 2002-2003 and $558,000 in fiscal year 2003-2004 for Child Advocacy Centers. Notwithstanding KRS 45.229, Phase I Tobacco Settlement funds totaling $4,000,000 in fiscal year 2001-2002 shall not be expended but shall carry forward into fiscal year 2002-2003 and not be expended, but shall carry forward into fiscal year 2003-2004 to sustain operations of fully implemented child care programs. These represent funds from fiscal year 2000-2001 which were reserved by the Early Childhood Authority in anticipation of the reduced Phase I Tobacco Settlement payments in fiscal year 2003-2004.

3. CABINET FOR HEALTH SERVICES

		2002-03	2003-04
Budget Unit	Public Health	18,598,800	18,155,300

Included in the above appropriation is $11,948,800 in each fiscal year for the HANDS Program; $2,200,000 in fiscal year 2002-2003 and $2,010,300 in fiscal year 2003-2004 for Healthy Start initiatives; $2,000,000 each fiscal year for Universal Children's Immunizations; $1,200,000 in fiscal year 2002-2003 and $946,200 in fiscal year 2003-2004 for the Folic Acid Program; $1,000,000 each fiscal year for Early Childhood Mental Health; and $250,000 in each fiscal year for Early Childhood Oral Health. Additionally, $543,500 in Phase I Tobacco Settlement funds is budgeted to continue from fiscal 2001-2002 into fiscal year 2003-2004 to sustain operations of fully implemented Healthy Start ($289,700) and Folic Acid ($253,800) programs. These amounts represent funds from fiscal year 2000-2001 which were reserved by the Early Childhood Authority in anticipation of the reduced Phase I Tobacco Settlement payments in fiscal year 2003-2004.

		2002-03	2003-04
Budget Unit	Mental Health and Mental Retardation1,000,000	1,000,000	
Budget Unit	Children with Special Health Care Needs	1,600,000	1,600,000

Included in the above appropriation is $550,000 in each fiscal year for Universal Newborn Hearing Screening; $50,000 in each fiscal year for Vision Screening; and $1,000,000 each fiscal year for the Kentucky Early Intervention Services First Steps Program.

4. POSTSECONDARY EDUCATION

		2002-03	2003-04
Budget Unit	Kentucky Higher Education Assistance Authority	750,000	750,000

Included in the above appropriation is $750,000 each fiscal year for Early Childhood Scholarships.

	2002-03	2003-04
TOTAL EARLY CHILDHOOD APPROPRIATIONS	31,400,000	27,275,000

C. HEALTH CARE IMPROVEMENT APPROPRIATIONS

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

Notwithstanding the provisions of KRS 304.17B-003(5) appropriations for health care improvement shall be as follows:

1. GOVERNMENT OPERATIONS

	2002-03	2003-04
Budget Unit Kentucky Agency for Substance Abuse Policy	2,574,800	2,236,600

Included in the above appropriation is $1,844,100 in fiscal year 2002-2003 and $1,489,300 in fiscal year 2003-2004 which shall be transferred to the Endowment fund, notwithstanding the provisions of KRS 12.330. This Endowment fund shall be created as a Restricted Funds account in the state accounting system. Contained in the above appropriation is $225,000 each fiscal year to be transferred to the Department for Public Health for operating costs associated with the upgrade of the Kentucky All Schedule Prescription Electronic Reporting (KASPER) system.

2. CABINET FOR HEALTH SERVICES

	2002-03	2003-04
Budget Unit Public Health	3,140,000	2,727,500

These funds are appropriated for the Smoking Cessation Program within the Department for Public Health.

3. POSTSECONDARY EDUCATION

		2002-03	2003-04
Budget Unit Council on Postsecondary Education	6,280,000	5,455,000	

These funds are appropriated for the Lung Cancer Research Program within the Council on Postsecondary Education.

4. PUBLIC PROTECTION AND REGULATION CABINET

	2002-03	2003-04
Budget Unit Department of Insurance General Operations	19,405,200	16,855,900

These funds are appropriated for the Kentucky Access Program.

	2002-03	2003-04
TOTAL HEALTH CARE APPROPRIATIONS	31,400,000	27,275,000

	2002-03	2003-04
TOTAL PHASE I TOBACCO SETTLEMENT FUNDING PROGRAM	125,600,000	109,100,000

PART XII

STATE/EXECUTIVE BRANCH BUDGET SUMMARY

OPERATING BUDGET

	2001-2002	2002-2003	2003-2004
General Fund 300,000	6,966,116,900	7,178,071,200	
Restricted Funds	9,298,700	3,519,443,200	3,609,524,600
Federal Funds 17,739,500	5,352,291,400	5,372,416,500	
Road Fund	49,626,000	1,091,699,300	1,122,934,300
Subtotal	76,964,200	16,929,550,800	17,282,946,600

CAPITAL PROJECTS BUDGET

	2001-2002	2002-2003	2003-2004
General Fund -0-	-0-	-0-	
Restricted Funds	32,347,000	624,645,200	230,677,000
Federal Funds 1,392,000	61,319,000	230,677,000	
Bond Funds	231,200,000		
Road Fund		5,840,000	8,284,000
Agency Bonds	66,800,000		
Capital Construction Surplus		4,549,000	319,000
Investment Income		26,654,000	16,540,000
Deferred Maintenance		1,957,00	
Other Funds	78,739,000	2,700,000	
Emergency Repair, Replacement			

and Maintenance	3,100,000	1,000,000	
Capital Construction Contingency		14,728,000	
Subtotal	36,839,000	1,117,431,200	267,386,000

TOTAL-STATE/EXECUTIVE BUDGET

	2001-2002	2002-2003	2003-2004
General Fund 300,000	6,966,116,900	7,178,071,200	
Restricted Funds	41,645,700	4,144,088,400	3,840,201,600
Federal Funds 19,131,500	5,413,610,400	5,381,282,600	
Road Fund	49,626,000	1,097,539,300	1,131,218,300
Bond Funds	231,200,000		
Agency Bonds	66,800,000		
Capital Construction Surplus		4,549,000	319,000
Investment Income		26,654,000	16,540,000
Deferred Maintenance		1,957,000	
Other Funds	78,739,000	2,700,000	
Emergency Repair, Replacement and Maintenance	3,100,000	1,000,000	
Capital Construction Contingency		14,728,000	
TOTAL FUNDS	113,803,200	18,046,982,000	17,550,332,600

The above capital projects are directly funded in Part II, Capital Projects Budget, of this Act.

HB 657, AN ACT making appropriations for operations, maintenance, and support of the legislative branch of the Commonwealth of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

Funds are appropriated to the Legislative Research Commission out of the General Fund, restricted funds accounts, or federal funds accounts for the fiscal year beginning July 1, 2002, and ending June 30, 2003, and for the fiscal year beginning July 1, 2003, and ending June 30, 2004, in the following discrete sums, or so much thereof as may be necessary. Each appropriation is made by the source of respective fund or funds accounts to be used for the purposes of the legislative branch of government of the Commonwealth of Kentucky.

		2002-03	2003-04
1. General Assembly			
General Fund	9,812,300	13,312,300	
Restricted Funds		65,500	165,500
Total		9,877,800	13,477,800

The above General Fund appropriation to the General Assembly includes funds for the Legislators Retirement Plan in each fiscal year and provides for the continuation of the annual cost of living adjustment authorized for the 2000-2002 biennium. Notwithstanding KRS 6.190 and 6.213, the daily compensation provided by KRS 6.190 and the interim expense allowance provided by KRS 6.213 for members of the General Assembly shall be as authorized for the 2000-2002 biennium and shall continue as adjusted on January 1, 2003, and January 1, 2004, by the all urban consumer price index (CPI-U) not to exceed the cost-of-living adjustment provided state employes in the state/executive branch budget but not less than zero percent (0%) per annum.

		2002-03	2003-04
2. Legislative Research Commission			
General Fund	26,638,100	27,304,100	
Total		26,638,100	27,304,100

The total number of permanent full-time employees hired by the Legislative Research Commission with the above appropriation, and not assigned specifically to the House and Senate members of the Legislative Research Commission, shall not exceed 232 in fiscal year 2002-2003 and 232 in fiscal year 2003-2004. In addition to this number, the total number of permanent full-time employees assigned specifically to the House members of the Legislative Research Commission shall not exceed 19 and the permanent full-time employees assigned specifically to the Senate members of the Legislative Research Commission shall not exceed 10.

TOTAL - OPERATING BUDGET

		2002-03	2003-04
General Fund	36,450,400	40,616,400	
Restricted Funds		65,000	165,000
TOTAL		36,515,400	40,781,400

Notwithstanding the provisions of KRS 45.229, any unexpended balance remaining at the close of fiscal year 2001-2002 shall not lapse but shall continue into the 2002-2003 fiscal year and any unexpended balance in any succeeding fiscal year shall not lapse, but shall continue into the following fiscal year.

TOTALS - LEGISLATIVE BRANCH BUDGET

		2002-03	2003-04
General Fund	36,450,400	40,616,400	
Restricted Funds		65,000	165,000
TOTAL		36,515,400	40,781,400

PART II

GENERAL PROVISIONS

1. The Director of the Legislative Research Commission with the approval of the Legislative Research Commission may expend any of the funds appropriated for legislative operation and administration in any lawful manner and for any legal purpose which the Commission shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the legislative branch of government.

2. The Director of the Legislative Research Commission shall submit monthly to the Legislative Research Commission a report listing all travel expenses reimbursed, travel related per diem, and any other travel related reimbursement for each General Assembly member and each employee of the Legislative Research Commission who was reimbursed during the previous month.

3. No member of the General Assembly except members of the Legislative Research Commission shall receive in any one fiscal year per diem compensation in excess of 7 days in connection with out-of-state travel unless prior written approval has been received from the Legislative Research Commission.

4. Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

5. Any appropriation item and sum in this Act and in an appropriation provision in another act of the 2002 Regular Session of the General Assembly which constitute a duplicate appropriation shall be governed by KRS 48.312.

6. KRS 48.313 shall control when a total, subtotal, or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

7. Proposed revisions to restricted funds and federal funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The Director of the Legislative Research Commission shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

8. The Legislative Research Commission shall cause the Director of the Legislative Research Commission to prepare a final budget document reflecting the 2002-2004 biennial budget of the legislative branch. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within 60 days of the adjournment of the 2002 Regular Session of the General Assembly.

9. Notwithstanding KRS 6.220, in lieu of stationery, there shall be allowed to each member of the House of Representatives the sum of two hundred fifty dollars ($250) and to each member of the Senate the sum of five hundred dollars ($500). This allowance shall be paid out of the State Treasury at the beginning of the session.

PART III

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The legislative branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

HB 658, AN ACT making appropriations for the operations, maintenance, support, and functioning of the judicial branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, restricted funds accounts, or federal funds accounts for the fiscal year beginning July 1, 2002, and ending June 30, 2003, and for the fiscal year beginning July 1, 2003, and ending June 30, 2004, in the following sums to be used for the purposes of the judicial branch of the government of the Commonwealth of Kentucky including the Supreme Court, Court of Appeals, Circuit Court, District Court, the Administrative Office of the Courts, pretrial services, juvenile services, judicial boards and commissions, the State Law Library, judicial retirement, local facilities fund, local facilities use allowance contingency fund, and for services performed by the circuit clerks' offices, including both Circuit and District Court support.

1. Court of Justice

a. Court operations and administration

	2002-03	2003-04
General Fund	159,542,800	173,374,400
Restricted Funds	11,126,100	11,701,100
Federal Funds	1,412,200	1,223,800
Total	172,081,100	186,299,300

Funds are included to provide a five percent (5%) salary adjustment in fiscal year 2002-2003 and in fiscal year 2003-2004 for nonelected court personnel. Included are funds to provide for a five percent (5%) salary adjustment for justices and judges in fiscal year 2002-2003 and a five percent (5%) salary adjustment for the justices and judges in fiscal year 2003-2004. Also included are funds for the salaries of the circuit clerks in fiscal year 2002-2003 and in fiscal year 2003-2004 as provided for in the Judicial Branch Budget Recommendation.

Notwithstanding KRS 24A.100(3), funds are included in the above General Fund appropriation to continue the statutory maximum salary of trial commissioners as provided for in the Judicial Branch Budget Recommendation.

b. Local Facilities Fund

	2002-03	2003-04
General Fund	59,063,600	85,349,400

The use allowance for the Fayette County Courthouse is contingent upon Short Street in Lexington, Kentucky, remaining open to vehicular traffic.

Included in the above appropriation are moneys to compensate local units of government for providing court space and for costs incurred in the development of local court facilities as defined in KRS Chapter 26A and provided in Part II of this Act, and to perform all other acts required or authorized by KRS Chapter 26A.

Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2001-2002 shall not lapse and shall continue into fiscal year 2002-2003, and any unexpended balance at the close of fiscal year 2002-2003 shall not lapse and shall be continued into fiscal year 2003-2004.

c. Local Facilities Use Allowance Contingency Fund

	2002-03	2003-04
General Fund	0	0

Notwithstanding KRS 45.229, any remaining unexpended balance at close of fiscal year 2001-2002 shall not lapse, but be continued into fiscal year 2002-2003, and any remaining unexpended balance at the close of fiscal year 2002-2003 shall not lapse, but be continued into fiscal year 2003-2004 to provide for cost overruns in authorized court facilities projects not to exceed fifteen percent (15%) of the use allowance in accordance with KRS Chapter 26A. For any court facility project which is occupied and use allowance funding is insufficient, the use allowance payments shall be approved from the Local Use Allowance Contingency Fund. If funds are not available in the Local Facilities Use Allowance Contingency Fund, the use allowance shall be deemed a necessary governmental expense. (General Fund Surplus Account, KRS 48.700)

Total Court of Justice

	2002-03	2003-04
General Fund	218,606,400	258,723,800
Restricted Funds	11,126,100	11,701,100
Federal Funds	1,412,200	1,223,800
TOTAL	231,144,700	271,648,700

2. Judicial Form Retirement System

	2002-03	2003-04
General Fund	2,500,660	2,519,400

General Fund amounts are included to provide for the 2001 actuarial assessed needs of the Judicial Form Retirement System.

TOTAL - OPERATING BUDGET

	2002-03	2003-04
General Fund	221,107,000	261,243,200
Restricted Funds	11,126,100	11,701,100
Federal Funds	1,412,200	1,223,800
TOTAL	233,645,300	274,168,100

PART II

CAPITAL PROJECTS BUDGET

1. Local Facility Projects

The multiyear schedule for the use allowance payments for the capital costs for each local facility is contained in the Judicial Branch Budget Recommendation.

a.	Adair County - Project Scope	7,528,000
b.	Boyd County - Project Scope	14,724,000
c.	Grant County - Project Scope	11,879,000
d.	Grayson County - Project Scope	8,553,000
e.	Green County - Project Scope	7,168,000
f.	Hart County - Project Scope	8,264,000
g.	Hopkins County - Project Scope	14,058,000
h.	Jackson County - Project Scope	8,262,000
i.	Laurel County - Project Scope	18,485,000
j.	Livingston County - Project Scope	3,288,000
k.	Logan County - Project Scope	11,879,000
l.	Pike County - Project Scope	20,818,000
m.	Project Pool - Project Scope	6,161,000
n.	Pulaski County - Project Scope	17,055,000
o.	Rowan County - Project Scope	11,555,000
p.	Shelby County - Project Scope	13,836,000
q.	Taylor County - Project Scope	12,181,000
r.	Trigg County - Project Scope	7,313,000
s.	Trimble County - Project Scope	5,783,000
t.	Washington County - Project Scope	8,249,000
u.	Wolfe County - Project Scope	9,432,000
v.	Franklin County - Lease Office Space (Millcreek Park)	
w.	Franklin County - Lease Court of Appeals (Democrat Drive)	
x.	Jefferson County - Courts Parking Lease	

For any court facility project which is occupied and use allowance funding is insufficient, the use allowance payments shall be approved from the Local Facilities Use Allowance Contingency Fund. If funds are not available in the Local Facilities Use Allowance Contingency Fund, the use allowance payments shall be deemed a necessary governmental expense. (General Fund Surplus Account, KRS 48.700)

TOTAL - JUDICIAL BRANCH BUDGET

	2002-03	2003-04
General Fund	221,107,000	261,243,200
Restricted Funds	11,126,100	11,701,100
Federal Funds	1,412,200	1,223,800
TOTAL	233,645,300	274,168,100

PART III

GENERAL PROVISIONS

1. The Director of the Administrative Office of the Courts with the approval of the Chief Justice may expend any of the funds appropriated for the court operation and administration in any lawful manner and for any legal purpose that the Chief Justice shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the judicial branch of government.

2. The Court of Justice shall not incur any obligation for any program against the General Fund appropriations contained in this Act unless that program may be reasonably determined to have been contemplated by the proposed judicial budget, as modified and enacted, and supported by the statutory budget memorandum and other pertinent records.

3. Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

4. Any appropriation item and sum in this Act and in an appropriation provision in another Act of the 2002 General Assembly which constitutes a duplicate appropriation shall be governed by KRS 48.312.

5. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

6. Notwithstanding KRS 45.229, any unexpended balance remaining in the Court's restricted funds accounts or federal funds accounts at the close of the fiscal years ending June 30, 2002, and June 30, 2003, shall not lapse and shall continue into the next fiscal year.

7. Proposed revisions to restricted funds and federal funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The Director of the Administrative Office of the Courts shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

8. The Chief Justice shall cause the Director of the Administrative Office of the Courts to prepare a final budget document reflecting the 2002-2004 biennial budget of the Court of Justice. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within sixty (60) days of the adjournment of the 2002 Regular Session of the General Assembly.

9. Funding for the Commonwealth's family courts has been continued during fiscal year 2002-2003 and fiscal year 2003-2004. Continuation of the Family Court Pilot Project is recognition that additional time and experience are required to properly assess the success of the Family Court Project.

PART IV

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The Judicial Branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

HJR 87, A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Any mandates, directives, or initiatives contained in the 2002-2004 State/Executive Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 2002-2004 State/Executive Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 2002-2004 State/Executive Branch Budget Bill or the 2002-

2004 State/Executive Branch Budget Memorandum.

Section 3. The provisions of the 2002-2004 State/Executive Branch Budget Memorandum shall not be construed to contain appropriations and, therefor, shall not supersede appropriations contained in the 2002-2004 State/Executive Branch Budget Bill or appropriations contained in any other enactment of the 2002 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 2002-2004 State/Executive Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 2002-2004 State/Executive Branch Budget Memorandum, the mandate, directive, or initiative contained in the 2002-2004 State/Executive Branch Budget Bill shall prevail.

Section 4. Whereas the State/Executive Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Section 5. The 2002-2004 State/Executive Branch Budget Memorandum is as follows:

HJR 133, A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Any mandates, directives, or initiatives contained in the 2002-2004 Judicial Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 2002-2004 Judicial Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 2002-2004 Judicial Branch Budget Bill or the 2002-2004 Judicial Branch Budget Memorandum.

Section 3. The provisions of the 2002-2004 Judicial Branch Budget Memorandum shall not be construed to contain appropriations and, therefor, shall not supersede appropriations contained in the 2002-2004 Judicial Branch Budget Bill or appropriations contained in any other enactment of the 2002 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 2002-2004 Judicial Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 2002-2004 Judicial Branch Budget Memorandum, the mandate, directive, or initiative contained in the 2002-2004 Judicial Branch Budget Bill shall prevail.

Section 4. Whereas the Judicial Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Section 5. The 2002-2004 Judicial Branch Budget Memorandum is as follows:

HJR 134, A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Any mandates, directives, or initiatives contained in the 2002-2004 Legislative Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 2002-2004 Legislative Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 2002-2004 Legislative Branch Budget Bill or the 2002-2004 Legislative Branch Budget Memorandum.

Section 3. The provisions of the 2002-2004 Legislative Branch Budget Memorandum shall not be construed to contain appropriations and, therefore, shall not supersede appropriations contained in the 2002-2004 Legislative Branch Budget Bill or appropriations contained in any other enactment of the 2002 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 2002-2004 Legislative Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 2002-2004 Legislative Branch Budget Memorandum, the mandate, directive, or initiative contained in the 2002-2004 Legislative Branch Budget Bill shall prevail.

Section 4. Whereas the Legislative Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Section 5. The 2002-2004 Legislative Branch Budget Memorandum is as follows:

Calendar

HB 701, HCR 136, HJR 189, HJR 205, SCR 76, HB 596, HB 618, HB 661, HB 680, HB 729, HB 736, HB 739, HB 742, HCR 192, SB 141, SB 169, HB 426, HB 506, HB 777, HJR 122, HCR 129, HJR 170, HJR 178, HJR 180, SJR 3, SJR 24, SJR 42, HB 810, HCR 199, and **HB 708** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report of Committees (Continued)

Representative Stumbo moved to suspend the rules to allow for Rules Committee Report. Agreed.

The Committee on Rules reported that **HCR 158, HB 402, HB 637, HB 737,** and **HB 755** have been posted for passage in the Orders of the Day for March 11, 2002.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 61** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -9:40 a.m.)

Orders of the Day

Representative Stumbo moved to recommit **HB 507, HB 657, HB 658, HJR 87, HJR 134,** and **HJR 133** to the Committee on Appropriations and Revenue. Agreed.

Speaker Pro Tem L. Clark assumed the Chair.

HB 525, with Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Floor Amendment No. 1 to **HB 525** . Agreed.

Representative moved the adoption of Floor Amendment No. 2 to **HB 525** . Agreed.

Representative Richards moved that **HB 525**, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 8, 2002, roll call on **HB 525** - Appendix.)

HB 525, as amended, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 525** , as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Speaker Richards resumed the Chair.

HB 530, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 530** be returned to the Orders of the Day and retain its position therin. Agreed.

HB 510, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved the adoption of the Committee Substitute to **HB 510**. Agreed.

Representative Ford moved that **HB 510**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 8, 2002, roll call on **HB 510** - Appendix.)

HB 510, by way of Committee Substitute, was passed.

Representative Ford moved the adoption of Committee Amendment No. 1 Title to **HB 510**. Agreed.

Representative Ford moved that the vote by which **HB 510**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 112, HB 115, HB 231, HB 273, HB 320, HB 422, HB 549,** and **HCR 72** has been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -10:02 a.m.)

Orders of the Day (Continued)

SB 116 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved that **SB 116** be passed.

On the roll call the vote was: **Yeas 93, Nays 1**. (See March 8, 2002, roll call on **SB 116** - Appendix.)

SB 116 was passed and the title agreed to.

Representative Kerr moved that the vote by which **SB 116** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 131 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved that **SB 131** be passed.

On the roll call the vote was: **Yeas 94, Nays 1**. (See March 8, 2002, roll call on **SB 131** - Appendix.)

SB 131 was passed and the title agreed to.

Representative Rasche moved that the vote by which **SB 131** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 309 with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non concurrence in Senate Amendment. Agreed.

The Senate Committee Substitute to **HB 309** is as follows:

HB 309, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the State Police Retirement System created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky Retirement Systems;

(3) "Employer" or "State Police" means the Department of State Police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided;

(5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed, including interest credited;

(8) "Creditable compensation" means all salary and wages, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer. Living allowances, expense reimbursements, ***lump-sum*** payments[~~ received after the date of termination of employment~~] for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(9) "Final compensation" at any time means the creditable compensation of a member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the three (3) year period, multiplied by twelve (12); the three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of actuarial tables adopted by the board, except that, in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of State Police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959;

(16) "Disability retirement date" means the first day of the month following total and permanent disability or hazardous disability;

(17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;

(19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of duty" shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description;

(20) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;

(21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;

(22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;

(23) "Hazardous disability" as used in KRS 16.510 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(29) "Delayed contribution payment" means an amount paid by an employee for ***purchase of*** current service[~~ obtained under KRS 61.552~~]. The amount shall be determined using the same formula ***in Section 24 of this Act***[~~adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer~~], and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member;

(30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;

(31) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, x-rays, and psychological tests;

(32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543; and

(34) "Month" means a calendar month.

Section 2. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

(1) Cessation of membership, as provided for by KRS 61.535;

(2) Medical examiners and hearing procedures, as provided for by KRS 61.665;

(3) Actuarial bases, as provided for by KRS 61.670;

(4) Duties of the employer, as provided for by KRS 61.675;

(5) Exemption of benefits of the system for taxation, as provided for by KRS 61.690;

(6) Retirement allowance increase, as provided for by KRS 61.691;

(7) Calculation of retirement allowance, as provided for by KRS 61.595(3) and (4);

(8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;

(9) Year of service credit, as provided for by KRS 61.545;

(10) Refund of contributions, death after retirement, as provided by KRS 61.630;

(11) Custodian of fund, payments made, when, as provided for by KRS 61.660;

(12) Credit for service prior to membership date, as provided for by KRS 61.526;

(13) Transfer of dormant accounts, as provided for by KRS 61.626;

(14) Member's account, confidential, as provided for by KRS 61.661;

(15) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(16) Correction of errors in records, as provided for by KRS 61.685;

(17) Maximum disability benefit, as provided for by KRS 61.607;

(18) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(19) Employer contributions, as provided for by KRS 61.565;

(20) Reinstatement of lost service credit, purchase of service credit, interest paid, delayed contribution and installment payments, as provided for by KRS 61.552;

(21) Reciprocal arrangement between systems, as provided by KRS 61.680;

(22) Refund of contributions, conditions, as provided by KRS 61.625;

(23) Hospital and medical insurance plan, as provided by KRS 61.702;

(24) Death benefit, as provided by KRS 61.705;

(25) Disability retirement allowance, reduction, discontinuance, as provided by KRS 61.615;

(26) Service credit, Armed Forces, as provided by KRS 61.555;

(27) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;

(28) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;

(29) Retirement of persons in hazardous positions, as provided for by KRS 61.592;

(30) Direct deposit of recipient's retirement allowance as provided in KRS 61.623;~~[and]~~

(31) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525***; and***

(32) Payment of small amounts upon death of member, retiree, or recipient without formal administration of the estate as provided in Section 17 of this Act.

Section 3. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he serves in the position;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the year. A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, ***lump-sum*** payments~~[received after the date of termination of employment]~~ for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means:

(a) For a member who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; or

(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance; or

(c) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up

after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) regular legislative sessions;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

- (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;
- (b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;
- (c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months;
- (d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and
- (e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;

(22) "Delayed contribution payment" means an amount paid by an employee for ***purchase of*** current service[~~ obtained under KRS 61.552~~]. The amount shall be determined using the same formula ***in Section 24 of this Act***[~~adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer~~], and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;

(33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543; and

(35) "Month" means a calendar month.

Section 4. KRS 61.545 is amended to read as follows:

(1) The board shall determine by appropriate administrative regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit. It shall not allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except as provided in KRS 61.546 and in subsection (2) of this section.

(2) (a) Employees participating in one (1) of the state-administered retirement systems who are or have been employed by a school board participating in the County Employees Retirement System, a state-operated school under KRS Chapter 167, or a Kentucky institution of higher education which participates in the Kentucky Employees Retirement System, ***and who receive service credit for***[~~to work~~] less than twelve (12) months each year, may purchase the additional months of service credit needed to total one (1) year of service credit except the amount purchased shall not exceed three (3) months. The employee may purchase the service credit by paying the retirement system ***a delayed contribution payment. Employees***[~~the member and employer contributions calculated on the average monthly rate multiplied by the number of months to be purchased. The payment shall be received by the retirement system by December 31 immediately following the school year in which the fractional year's service occurred. If the additional service credit is not purchased by December 31 following the close of each school year, the member shall pay interest on the cost of purchasing the credit at a rate established by the board of trustees. Members~~] who have service credit prior to July 1, 1992, or their employers, the state-operated school under KRS Chapter 167, the Kentucky institution of higher education, or the school board may purchase service credit on behalf of the employee for previous years by paying the retirement system the ***delayed contribution payment***[~~member and employer contributions calculated on the average monthly rate, multiplied by the number of months to be purchased plus interest at the actuarial rate~~].

(b) The cost of service under this subsection may be paid by both the employer and employee. The employer shall pay ***fifty percent (50%) of the cost***[~~the employer contributions plus interest~~] and the employee shall pay ***fifty percent (50%) of the cost***[~~the employee contributions plus interest~~]. The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payment are received by the retirement system.

(c) If the employee has purchased service credit under this subsection based on months reported by the employer for the fiscal year, and an audit of the employee's account reduces the number of months of service credit for which the employee is eligible to no fewer than nine (9) months, the employee shall retain credit for the months purchased unless the employee is ineligible for any service in the fiscal year. The employee shall be eligible to purchase the additional months under this subsection to total one (1) year.

(3) (a) An employee who is simultaneously eligible for membership in more than one (1) retirement system administered by the Kentucky Retirement Systems may, at his option, choose to participate in only one (1) of those systems. The choice, once made, shall remain in effect so long as the employee is eligible for membership in more than one (1) system.

(b) If the employee participates in more than one (1) of the retirement systems administered by the Kentucky Retirement Systems, the employee's service credit shall be divided between each system determined by dividing the employee's creditable compensation in each system by the employee's total creditable compensation in all systems.

(c) If the employee earns creditable compensation in both a hazardous position, as defined by KRS 61.592, and a nonhazardous position, the employee's service credit shall be divided between the employee's hazardous and nonhazardous positions determined by dividing the employee's creditable compensation in the hazardous and nonhazardous positions by the employee's combined hazardous and nonhazardous creditable compensation.

Section 5. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems who has been refunded his accumulated contributions under the provisions of KRS 16.645(22), 61.625, or 78.545(15), thereby losing service credit, may regain the

credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system.[~~ If the participating employee dies before regaining lost service credit, the employee's beneficiary, as designated according to the requirements of the employee's retirement system, may regain the credit by paying the amount refunded with interest at a rate determined by the board of the respective retirement system. Thereafter the beneficiary shall be entitled to the benefits that are payable based upon the deceased employee's total service credit. The provisions of KRS 161.470 shall be met in order to regain the credit in the Teachers' Retirement System. KRS 21.460 shall govern with respect to regaining credit in the Judicial Retirement Plan or Legislators' Retirement Plan. The beneficiary shall make the payment within one (1) year of the date of the employee's death.~~] The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the[~~ state-administered~~] retirement systems ***administered by Kentucky Retirement Systems*** who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(3) Any employee participating in one (1) of the[~~ state-administered~~] retirement systems ***administered by Kentucky Retirement Systems*** who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(4) An employee participating in one (1) of the[~~ state-administered~~] retirement systems ***administered by Kentucky Retirement Systems*** may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.[~~ Effective August 1, 1988, each employee of the Kentucky Racing Commission who was employed by the racing commission on the date that agency first participated in the Kentucky Employees Retirement System, whether or not the employee was eligible to participate in the retirement system on that date, shall receive current service credit for all employment with the racing commission from July 1, 1956, to the date the employee first began participating in the retirement system. The cost of the service credit shall be paid at the time of each member's retirement by the racing commission and shall be credited to the retirement allowance account.~~]

(5) (a) An employee participating in one (1) of the[~~ state-administered~~] retirement systems ***administered by Kentucky Retirement Systems*** may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(b) An employee participating in ***one (1) of the retirement systems administered by Kentucky Retirement Systems***[~~the Kentucky Employees Retirement System or the County Employees Retirement System~~], who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) ***in the systems administered by Kentucky Retirement Systems*** may obtain credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system in which he participates ***a delayed contribution payment***[~~the full cost of the service credit purchased~~], as determined by the board's actuary. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.

(6) After August 1, 2000, service credit obtained under the subsections of this section which do not require the employee to have a minimum number of years of service credit to be eligible to make a purchase shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of the state-administered retirement systems. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 16.582 or 61.600.

The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the~~[state administered]~~ retirement systems ***administered by Kentucky Retirement Systems*** who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in~~[one (1) of]~~ the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by a defined benefit retirement program, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the ***employee's account in the*** County Employees Retirement System, the Kentucky Employees Retirement System, or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the County Employees, Kentucky Employees Retirement System, or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the employee may pay by increments.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) Employees who served as assistants to officers and employees of the General Assembly ***who have at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and*** who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960~~[, if the service purchased when added to other accumulated service will total at least forty-eight (48) months]~~. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) (a) Effective August 1, 1988, any employee participating in one (1) of the~~[state administered]~~ retirement systems ***administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems*** may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined ***as a delayed contribution payment***~~[by computing the member and employer contributions]~~ for the period of time involved~~[plus interest compounded annually at the current actuarial rate]~~, which shall not be picked up by the employer as described in KRS 61.560(4).

(b) Any noncertified employee of a school board ***who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems*** may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined ***as a delayed contribution payment***[~~by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate~~], which shall not be picked up by the employer as described in KRS 78.610(4).

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs ***under the provisions of subsections (1) to (4) of Section 10 of this Act*** and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the[~~ state-administered retirement~~] systems ***administered by Kentucky Retirement Systems*** who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) ***in the systems administered by Kentucky Retirement Systems*** may obtain credit for prior or current service for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, by paying to the respective retirement system a delayed contribution payment. The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the[~~ state-administered~~] retirement systems ***administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems*** may obtain credit for prior or current service for any period of approved maternity leave, ***unpaid leave authorized under the federal Family and Medical Leave Act,*** or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by making installment payments in lieu of a lump-sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. Once multiple service purchases have been combined in an installment purchase, the employee may not separate the purchases or pay a portion of one (1) of the purchases. The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.

(b) ***One (1) year of***[~~Twelve (12) consecutive monthly~~] installment payments shall be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total ***period allowed for***[~~number of~~] installments shall not be less than ***one (1) year***[~~twelve (12)~~] and shall not exceed ***five (5) years***[~~sixty (60)~~].

(c) The employee shall pay the installments by payroll deduction[~~ each pay period~~]. Upon notification by the retirement system, the employer shall report the installment payments ***either monthly or semi-monthly continuously over each twelve (12) month period at the same time as, but*** separate from***,*** regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee elects to stop the installment payments[~~, dies, retires, or does not continue employment in a position required to participate in the retirement system~~], the ***employee***[~~member, or in the case of death, the beneficiary,~~] shall have sixty (60) days to pay the remaining principal of the purchase by lump sum. If the ***employee***[~~member or beneficiary~~] does not pay the remaining cost ***or if the employee dies, retires, or does not continue employment in a position required to participate in the retirement system***, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, ***except in the case of employees on military leave or sick leave without pay,*** the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased. ***Installment payments of employees on military leave or sick leave without pay shall be suspended during the period of leave and shall resume without recalculation upon the employee's return from leave.***

(g) If payments have ceased under paragraph (e) or (f) of this subsection and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(17)[~~(h)~~] Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by transferring funds ***through a direct trustee-to-trustee transfer as permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder, or through a direct rollover as contemplated by and permitted under***[~~pursuant to the rules in~~] 26 U.S.C. sec. 401(a)(31) ***and any regulations or rulings issued thereunder***[~~directly from a retirement plan or a deferred compensation arrangement maintained by his employer which is a qualified plan pursuant to 26 U.S.C. sec. 401(a)~~]. Service credit may also be purchased by a rollover of funds[~~ from a qualified retirement plan~~] pursuant to ***and permitted under*** the rules specified in 26 U.S.C. sec. 402(c) ***and 26 U.S.C. sec. 408(d)(3)***. The Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in ***the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder***[~~26 U.S.C. secs. 402(c) and 401(a)(31)~~]. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(18)[~~(17)~~] After August 1, 1998, any employee participating in one (1) of the[~~ state-administered~~] retirement systems ***administered by Kentucky Retirement Systems*** who is age sixty-five (65) or older and has forty-eight (48) ***months of***[~~months'~~] service credit[~~ in the Kentucky Employees Retirement System or the County Employees Retirement System~~] or, if younger, who has sixty (60) ***months of***[~~months'~~] service credit in ***systems administered by Kentucky Retirement Systems***[~~the Kentucky Employees Retirement System or the County Employees Retirement System~~] may purchase credit in the system in which the employee has the service credit for up to ten (10) years service in a regular full-time position that was credited to a state or local government-administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay ***a delayed contribution payment***[~~the full cost of the service as determined by the system~~]. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible to the extent permitted under subsection *(17)*[~~(16)(h)~~] of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

(19)[~~(18)~~] After August 1, 1998, any employee participating in one (1) of the[~~ state-administered~~] retirement systems ***administered by Kentucky Retirement Systems***, who has sixty (60) or more months of service in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System, may purchase credit in the system in which the employee has the sixty (60) months of service credit for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay ***a delayed contribution payment***[~~the full cost of the service credit as determined by the system~~]. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection *(17)*[~~(16)(h)~~] of this section and to the extent permitted by the other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

(20)[~~(19)~~] Any employee participating in one (1) of the[~~ state-administered~~] retirement systems ***administered by Kentucky Retirement Systems*** who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) ***in the systems administered by Kentucky Retirement Systems and*** who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.

(21)[~~(20)~~] An employee participating in any[~~ state-administered~~] retirement system ***administered by Kentucky Retirement Systems*** who has at least forty-eight (48) ***months of***[~~months'~~] service if age sixty-five (65), or at least sixty (60) ***months of***[~~months'~~] service if under age sixty-five (65) ***in the systems administered by Kentucky Retirement Systems***, and who was formerly employed in a regional community mental health and mental retardation services program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement

system may obtain credit for the period of his service in the regional community mental health and mental retardation program, by paying to the state retirement system in which he participates ***a delayed contribution payment***[~~the full cost of the service credit purchased, as determined by the system~~]. Payment to one (1) of the retirement systems administered by the Kentucky Retirement Systems may be made by lump sum or in increments.

(22)[~~(21)~~] An employee participating in ***one (1) of the retirement systems administered by Kentucky Retirement Systems***[~~any state-administered retirement system~~] who has at least forty-eight (48) ***months of***[~~months'~~] service if age sixty-five (65) or at least sixty (60) ***months of***[~~months'~~] service if under age sixty-five (65) ***in the systems administered by the Kentucky Retirement Systems***, who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. The cost of the service shall be ***a delayed contribution payment***[~~determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate~~], which shall not be picked up by the employer as described in KRS 61.560(4).

[~~(22) Any employee participating in one (1) of the state administered retirement systems on June 30, 2000, may obtain credit for subsequent service with a parted employer from the Commonwealth operating for the purposes of KRS 163.475, by paying to the respective retirement system a delayed contribution payment if the respective retirement system receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall be deposited to the individual member's account. The delayed contribution payment shall not be picked up by the employer as described in KRS 61.560(4).~~

~~(23) Any employee participating in the County Employees Retirement System who has at least forty eight (48) months of service if age sixty five (65) or at least sixty (60) months of service if under age sixty five (65) may purchase service credit for service with a city, county, or joint city-county planning commission, if that service was not covered by a state-administered retirement system. Notwithstanding any statute to the contrary, the employee shall be entitled to a full month of service for each month or portion of month that the employee occupied the position whether or not the employee would have qualified, at the time of planning commission service, for the service under KRS 6.525. The employee shall pay to the retirement system the full cost of the service credit purchased, as determined by the board's actuary. The payment shall not be picked up, as described in KRS 78.610(4), by the employer and shall be deposited to the member's account. Payment may be by lump sum or in increments. The employee may obtain credit for service with a city, county, or joint city-county planning commission only if the Kentucky Retirement Systems receives a favorable letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor.~~]

(23)[~~(24)~~] (a) Any ***person***[~~member or retired member of one (1) of the retirement systems administered by the Kentucky Retirement Systems~~] who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or KRS 78.615 may obtain credit for the service by paying the employee contributions due within six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions are received by the retirement system.

(b) Any employee participating in one (1) of the ***state-administered*** retirement systems[~~ administered by Kentucky Retirement Systems~~] who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions are received by the retirement system. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(24)[~~(25)~~] Any employee participating in one (1) of the [~~state-administered~~] retirement systems ***administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems*** may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the former public agency or political subdivision has merged with or been taken over by a participating department or county. The cost of the service shall be determined as a delayed contribution payment for the respective retirement system. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or KRS 78.610(4), by the employer.

(25)[~~(26)~~] Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems on or after August 1, 1998, who has at least ***forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems and who has total service in all state-administered retirement systems of at least*** two hundred forty (240) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit which is not otherwise purchasable under any of the provisions of KRS 16.510 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852. The purchase price for the retirement service credit shall be calculated and paid for ***as a delayed contribution payment***[~~based on the full actuarial cost as determined by the system~~]. The payment shall not be picked up, as described in KRS 16.545(4), KRS 61.560(4), KRS 78.610(4), by the employer, and the employee's payment shall be paid into the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by increments.

(26)[~~(27)~~] An employee participating in one (1) of the[~~ state administered~~] retirement systems ***administered by Kentucky Retirement Systems***, who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), ***in the systems administered by Kentucky Retirement Systems,*** may obtain credit in the County Employees Retirement System for the period of that employee's service with a community action agency created under KRS 273.405 to 273.453 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system ***a delayed contribution payment***[~~the full actuarial cost of the service credit purchased~~]. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or 78.610(4), by the employer.

(27) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems may obtain current service credit for up to forty-eight (48) months for his or her period of service as a Domestic Relations Commissioner by paying to the retirement system a delayed contribution payment no later than December 31, 2002. Payment may be made by lump sum or under an installment agreement. The payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

Section 6. KRS 61.555 is amended to read as follows:

(1) After August 1, 1998, any employee entering the Armed Forces of the United States after he first participates in the system, ***who joins the Armed Forces within three (3) months of the last day of paid employment,*** being on leave of absence from service and not withdrawing his accumulated contributions, shall be[~~ entitled to have~~] credited ***for retirement purposes with service credit and creditable compensation as provided in 38 U. S. C. sec. 4318 for***[~~as current service~~] his period of active military duty in the Armed Forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after completion of the period of active military duty, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) After August 1, 1998, any employee who, prior to the date he first participated in the system, terminated his employment ***with an agency participating in one (1) of the systems administered by the Kentucky Retirement Systems and within three (3) months entered***[~~in order to enter~~] the Armed Forces of the United States and who returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after completion of the period of active military duty, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be[~~ entitled to have~~] credited ***for retirement purposes with service credit and creditable compensation as provided in 38 U. S. C. sec. 4318 for***[~~as prior service~~] his period of active military duty in the Armed Forces, not to exceed six (6) years.

(3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years' service while on military duty during this period, shall have that portion of his active military duty, necessary to the completion of eight (8) years' current service, credited to his account, as current service without having to meet the reemployment criteria.

(4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (3) of this section if he pays thirty-five percent (35%) of the cost of the service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in KRS 61.560(4), and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for the purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account, the system shall not accept employee payments until funds are available in the account.

(5) Any employee participating in one (1) of the[~~ state administered~~] retirement systems ***administered by Kentucky Retirement Systems*** eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for active military duty as provided under subsection (4) of this section without payment of the current employee contribution ratio if the member was taken prisoner by a hostile power at any time during active military service.

(6) (a) Any employee participating in one (1) of the[~~ state administered~~] retirement systems ***administered by Kentucky Retirement Systems*** age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or if younger who has sixty (60) months of service, at least twelve (12) of which are current service shall receive current service for[~~ a maximum of four (4) years for~~] his period of active military duty in the Armed Forces of

the United States, if his discharge therefrom is ***not dishonorable***[~~honorable~~] and he has not been credited with the service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment[~~ as defined in KRS 61.510(22). Payment shall be by lump sum, except that members may pay by increments. The delayed contribution payment shall not be picked up, as described KRS 61.560(4), by the employer and shall be deposited to the individual member's account.~~

~~(b) After August 1, 2000, an employee who purchased the maximum period of active military duty described in paragraph (a) of this subsection may purchase any qualified active military duty time in excess of the maximum by paying the retirement system the full actuarial cost as determined by the system~~]. Payment may be made by lump sum or in increments. The payment shall not be picked up by the employer as described in KRS 16.545(4), 61.560(4), or 78.610(4) and shall be deposited in the member's individual retirement account.

(b) Notwithstanding any other provision to the contrary, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems age sixty-five (65) or older who has at least one hundred eighty (180) months of service in the systems administered by Kentucky Retirement Systems shall receive current service for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is not dishonorable and he has not been credited with the service under this section, by paying the retirement system fifty percent (50%) of the cost under Section 24 of this Act no later than December 31, 2002. Payment may be made by lump sum or under an installment agreement under Section 5 of this Act. The payment shall not be picked up by the employer as described in KRS 16.545(4), 61.560(4), or 78.610(4) and shall be deposited in the member's individual retirement account.

(7)[~~Effective July 1, 1978, no veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for such pension in the future; but nothing in this section shall prohibit the purchase of credit if the military pension results from service primarily on inactive duty in a reserve component of the Armed Forces, or if the military pension is a disability pension, or is for a veteran sixty-five (65) years of age or older who is considered permanently and totally disabled. Any veteran receiving a military disability pension who retired prior to July 15, 1986, who was unable to purchase military service credit pursuant to subsection (4) or subsection (6) of this section, may make the payment required by subsection (4) or subsection (6), and his retirement benefits shall be recalculated to apply to all retirement allowances and insurance benefits received after the date of the payment. Retiree payments pursuant to subsection (4) of this section shall not be accepted unless matching state funds are available in the special appropriation account.~~

~~(8)~~] Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or if younger who has sixty (60) months of service, at least twelve (12) of which are current service, shall receive one (1) month of current service for each six (6) months of service in the National Guard or the military reserves of the United States, by paying the retirement system ***a delayed contribution payment***[~~the full actuarial cost as determined by the system~~]. The service shall be treated as service earned prior to participation in the system and shall not be included in the member's final compensation. Payment may be made by lump sum or in increments. The payment shall not be picked up by the employer, as described in KRS 16.545(4), 61.560(4), or 78.610(4) and shall be deposited in the member's individual retirement account.

Section 7. KRS 61.590 is amended to read as follows:

(1) A member or beneficiary eligible to receive retirement benefits under any of the provisions of KRS 61.510 to 61.705, 78.510 to 78.852, and 16.510 to 16.652 shall have on file at the retirement office on the form prescribed by the board, notification of retirement, giving his name, address, Social Security number, last day of employment, and other information the system may require. The notification of retirement shall not be filed more than six (6) months before the member's effective retirement date.

(2) Within ten (10) days of the receipt of the notification of retirement form submitted within two (2) months of the effective date of retirement, the system shall cause to be prepared an estimate of the amounts the member or beneficiary may expect to receive under the various plans available to the member or beneficiary. This information shall be recorded on a form entitled "Estimated Retirement Allowance" and forwarded to the member or beneficiary. If the member submits a notification of retirement form more than two (2) months prior to the effective retirement date, the system shall provide the estimated retirement allowance within forty-five (45) days of the member's effective retirement date.

(3) The member or beneficiary shall file at the retirement office the form entitled "Estimated Retirement Allowance" after he has checked the plan of his choice, signed the document and had his signature witnessed. A member or beneficiary may not select a different plan after the first retirement allowance payment has been issued by the State Treasurer.

(4) A member or beneficiary choosing a monthly payment plan shall have on file at the retirement office his birth certificate or other acceptable evidence of date of birth. If a survivorship plan is chosen, proof of dates of birth of the beneficiary and member shall be on file at the retirement office.

(5) The effective date of normal retirement shall be the first month following the month in which employment was terminated from a regular full-time position. The effective date of disability retirement shall be the first month following the month in which the member's last day of paid employment in a regular full-time position occurred. The effective date of early

retirement shall be the first month following the month the notification of retirement form is filed at the retirement office ***or a future month designated by the member***, if employment in a regular full-time position has been terminated ***and if the member files the "Estimated Retirement Allowance Form" no later than six (6) months following termination***.

(6) The effective date of a deferred retirement option as provided under KRS 16.576(5) shall be the month following age sixty-five (65), or the month following written notification from the member that he wishes to begin receiving retirement payments. In the event of the death of a member who has deferred his retirement allowance, the effective date of retirement shall be the month following the member's death.

(7) Notwithstanding the provisions of KRS 16.578 or 61.640, the effective date of a beneficiary's retirement allowance under normal, early, or disability retirement shall be as prescribed in subsection (5) or (6) of this section if the member dies before the first retirement allowance has been issued by the State Treasurer and his beneficiary becomes eligible for payments under KRS 16.578 or 61.640.

Section 8. KRS 61.595 is amended to read as follows:

(1) Effective July 1, 1990, upon retirement at normal retirement date or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) for the County Employees Retirement System and one and ninety-seven hundredths percent (1.97%) for the Kentucky Employees Retirement System of final compensation multiplied by the number of years of service credit, except that:

(a) Effective February 1, 1999, a member of the Kentucky Employees Retirement System who was participating in one of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two percent (2%) of final compensation multiplied by the number of years of service credit. Any Kentucky Employees Retirement System member whose effective date of retirement is between February 1, 1999, and January 31, 2009, and who has at least twenty (20) years of service credit in one of the state-administered retirement systems and who was participating in one of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) of final compensation multiplied by the number of years of service credit. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account***;***~~[.]~~

(b) The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 or 1976 General Assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars ($240) multiplied by the number of years of service as a member of the General Assembly;

(c) The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974;

(d) Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 Regular Session are eligible for an increased retirement allowance of two hundred forty dollars ($240) times the years of legislative service, if the member pays to the Kentucky Employees Retirement System thirty-five percent (35%) of the actuarial cost of the higher benefit, as determined by the system, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five percent (65%) of the computed actuarial cost shall be paid from the State Treasury to the Kentucky Employees Retirement System upon presentation of a properly documented claim to the Finance and Administration Cabinet. If any member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(e) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky Employees Retirement System, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512); and

(f) The annual retirement allowance for a member of the Kentucky employees retirement system or County Employees Retirement System shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) (a) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(b) ~~[There shall be no reduction in the retirement allowance of the member who has thirty (30) or more years of service credit, at least fifteen (15) of which are current service but]~~A member of the Kentucky Employees Retirement

System or the County Employees Retirement System who has twenty-seven (27) or more years of service credit, at least fifteen (15) of which are current service, may retire with no reduction in the retirement allowance. A member who has earned vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education***, the Council on Postsecondary Education,*** or the Higher Education Assistance Authority, may count the vested service toward attaining the necessary years of service credit as provided in KRS 61.559(2)(c) and (d) to qualify for a retirement allowance. The credit from a Kentucky institution of higher education***, the Council on Postsecondary Education,*** or the Higher Education Assistance Authority shall not be used toward the minimum fifteen (15) years of current service required by KRS 61.559(2)(c) and (d) or to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of Teachers' Retirement System credit pursuant to KRS 61.680(2)(a).

[~~(c) There shall be no reduction in the retirement allowance of the member who has twenty-six (26) years of service, sixteen (16) of which are current consecutive years of service as a cabinet secretary or administrative head of one (1) of the three (3) branches of government who has retired under the provisions of KRS 61.559(2)(e).~~]

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the State Treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is ***two dollars ($2)***[~~one dollar ($1)~~] greater or less than the amount of the initial retirement payment. ***If the member or beneficiary chose an actuarial equivalent refund payment option, the amount of estimated retirement allowance shall be the official retirement allowance unless the new calculation produces an amount which is one hundred dollars ($100) greater or less than the amount of the initial retirement payment.***

Section 9. KRS 61.635 is amended to read as follows:

(1) Each member shall have the right to elect to have his retirement allowance payable under any one (1) of the options set forth in this section in lieu of the retirement allowance otherwise payable to him upon retirement under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852. The amount of any optional retirement allowance shall be actuarially equivalent to the amount of retirement allowance otherwise payable to him.

(2) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during his lifetime and have the retirement allowance continued after his death to his beneficiary during the lifetime of the person.

(3) Survivorship sixty-six and two-thirds percent (66-2/3%). The member may elect to receive a decreased retirement allowance during his lifetime and have two-thirds (2/3) of the retirement allowance continue after his death to his beneficiary during the lifetime of the person.

(4) Survivorship fifty percent (50%). The member may elect to receive a decreased retirement allowance during his lifetime and have one-half (1/2) of the retirement allowance continued after his death to his beneficiary during the lifetime of the person.

(5) Life with ten (10) years certain. The member less than age seventy-six (76) may elect to receive a monthly retirement allowance during his lifetime which shall guarantee payments for one hundred twenty (120) months. If the member dies before receiving payments for one hundred twenty (120) months, his beneficiary shall receive the remaining payments monthly, for the duration of the one hundred twenty (120) months' period. However, if the[~~ estate or~~] trust is designated as beneficiary, the[~~ executor or administrator of the estate or~~] trustee of the trust may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or the[~~ executor or administrator or~~] trustee may elect to continue the remaining monthly payments to the[~~ estate or~~] trust of the member. ***If the estate is designated as beneficiary, the estate shall receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments.***

(6) Life with fifteen (15) years certain. The member less than age sixty-eight (68) may elect to receive a monthly retirement allowance during his lifetime which shall guarantee payments for one hundred and eighty (180) months. If the member dies before receiving payments for one hundred and eighty (180) months, his beneficiary shall receive the remaining payments monthly for the duration of the one hundred and eighty (180) months' period. However, if the[~~ estate or~~] trust is designated as beneficiary, the[~~ executor or administrator of the estate or~~] trustee of the trust may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or the[~~ executor or administrator or~~] trustee may elect to continue the remaining payments to the[~~ estate or~~] trust of the member. ***If the estate is designated as beneficiary, the estate shall receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments.***

(7) Life with twenty (20) years certain. The member less than age sixty-two (62) may elect to receive a monthly retirement allowance during his lifetime which shall guarantee payments for two hundred and forty (240) months. If the member dies before receiving payments for two hundre d forty (240) months, his beneficiary shall receive the remaining payments for the duration of the two hundred and f (240) months period. However, if the[~~ estate or~~] trust is beneficiary, the[~~ executor or administrator of the estate or th~~ ustee of the trust may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining pa ts, or the[~~ executor or administrator or~~] trustee may elect to continue the

remaining payments to the[~~ estate or~~] trust of the member. ***If the estate is designated as beneficiary, the estate shall receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments.***

(8) Social Security adjustment options. These options shall be available to any member who has not attained age sixty-two (62) as follows:

(a) No survivor rights. The member may elect to receive an increased retirement allowance from his effective retirement date through the month he attains age sixty-two (62) at which time his retirement allowance shall be decreased for the remainder of his lifetime;

(b) Survivor rights. The member may elect to receive an increased retirement allowance from his effective retirement date through the month he attains age sixty-two (62) based on the option payable under subsection (2) of this section, if the retirement allowance shall be decreased in the month following the month he attains age sixty-two (62), or the month following the month he would have attained age sixty-two (62), in event of his death, and have the retirement allowance continue after his death to his beneficiary during the lifetime of the person.

(9) Beneficiary Social Security adjustment option. This option is available to the beneficiary of a deceased member if the beneficiary, who is a person, has not attained age sixty (60), and is eligible to receive Social Security payments at age sixty (60). The beneficiary may elect to receive during his lifetime an increased retirement allowance based on his annual benefit payable for life. The payment shall begin on his effective retirement date and continue through the month he attains age sixty (60) at which time his retirement allowance shall be decreased for the remainder of his lifetime.

(10) Pop-up option. The member may elect to receive a decreased retirement allowance during his lifetime and have the retirement allowance continued after his death to his beneficiary during the lifetime of the person. If the beneficiary dies prior to the member, or if the beneficiary is the member's spouse and they divorce, the member's retirement allowance shall increase to the amount that would have been payable as a single life annuity.

(11) Actuarial equivalent refund. The member may elect to receive a one (1) time lump-sum payment which shall be the actuarial equivalent of the amount payable for a period of sixty (60) months under KRS 61.595 (1).

(12) ***Partial lump sum option.***

(a) No survivor rights. The member may elect to receive a one-time lump-sum payment equal to twelve (12), twenty-four (24), or thirty-six (36) monthly retirement allowances payable under the applicable retirement formula for the system and receive a reduced monthly retirement allowance payable for his or her lifetime. The lump-sum payment shall be paid in the month the first monthly retirement allowance is payable.

(b) Survivor rights. The member may elect to receive a one-time lump-sum payment equal to twelve (12), twenty-four (24), or thirty-six (36) monthly retirement allowances payable under subsection (2) of this section and receive a reduced monthly retirement allowance payable for his or her lifetime. The lump-sum payment shall be paid in the month the first monthly retirement allowance is payable. The reduced retirement allowance shall be continued after the member's death to his beneficiary during the lifetime of the person.

(13) In addition to the optional forms of annuities permitted under this section, the board may establish additional optional forms of annuities. The additional forms of annuities shall be based on actuarial equivalent values, with due regard to selection against the fund.

(14)[~~(13)~~] The other provisions of this section notwithstanding, the beneficiary of a retired member of the General Assembly shall, after the member's death, receive sixty-six and two-thirds percent (66-2/3%) of the member's retirement allowance during his or her lifetime if the member of the General Assembly has elected this option and has made contributions in accordance with subsection ***(15)***[~~(14)~~] of this section and of KRS 61.560. The retirement allowance of the retired member of the General Assembly shall not be actuarially reduced to provide for this survivor benefit.

(15)[~~(14)~~] A member of the General Assembly who wishes to obtain the survivorship option specified in subsection ***(14)***[~~(13)~~] of this section shall so notify the Kentucky retirement systems:

(a) Within thirty (30) days after first becoming a member of the General Assembly if he is not a member of the General Assembly on July 15, 1980; or

(b) Within thirty (30) days after July 15, 1980, if he is a member of the General Assembly on July 15, 1980.

(16)[~~(15)~~] The system shall forward to members of the General Assembly a form on which a member may elect the option provided for in subsections ***(14)***[~~(13)~~] and ***(15)***[~~(14)~~] of this section.

(17)[~~(16)~~] The options described in subsections (2), (3), (4), (8)(b), (10), ***(12)(b),*** and ***(14)***[~~(13)~~] of this section shall be extended to the member only if the designated beneficiary is a person.

Section 10. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.515 to 61.705 and 78.520 to 78.852 and who is reemployed as an employee by a participating agency prior to August 1, 1998, shall have his retirement payments suspended for the duration of reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employee contributions shall be made as provided in KRS 61.515 to 61.705 and 78.520 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar ($1), and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment;

(b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment;

(c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;

2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);

3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691;

5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents ($0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar ($1) for every three dollars ($3) earned if over age sixty-five (65).

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095; and

(b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

(7) *(a)* Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.

(b) A retired member whose disability retirement was discontinued pursuant to KRS 61.615 and who is reemployed in one (1) of the systems administered by the Kentucky Retirement Systems prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations. This provision shall apply to members reemployed on or after August 1, 1998.

(8)[~~Any former recipient of a disability retirement allowance from the Kentucky Retirement Systems who had at least two hundred forty (240) months of service credit and whose disability retirement allowance was terminated September 1, 1998, who is reemployed as of July 14, 2000, shall be treated under the provisions of subsections (1) to (4) of this section, except that the maximum permissible earnings as used in subsection (1) shall be the maximum permissible earnings under the Federal Social Security Act for calendar year 1998.~~

~~(9)~~] A retired member or his employer shall notify the retirement system if he has accepted employment with an agency that participates in the retirement system from which the member retired.

(9)[~~(10)~~] If the retired member is under a contract, the member shall submit a copy of that contract to the retirement system, and the retirement system shall determine if the member is an independent contractor for purposes of retirement benefits.

(10)[~~(11)~~] If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him prior to his voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.

(11)[~~(12)~~] (a)[~~1. A retired member of the Kentucky Employees Retirement System or the State Police Retirement System who, after initial retirement, is hired by an agency that participates in the Kentucky Employees Retirement System or the State Police Retirement System shall be considered to have been hired by the same employer.~~

~~2.~~] If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his retirement and the member shall repay to the retirement system all benefits received for the month.

(b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.

(12)[~~(13)~~] (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age sixty-five (65), is reemployed within six (6) months of the member's ***termination***[~~initial retirement date~~] by the same employer, the member shall obtain from his previous and current employers a copy of the job description established by the employers for the position and a statement of the duties performed by the member for the position from which he retired and for the position in which he has been reemployed.

(b) The job descriptions and statements of duties shall be filed with the retirement office.

(13)[~~(14)~~] If the retirement system determines that the retired member has been employed in a position with the same principal duties as the position from which the member retired:

(a) The member's retirement allowance shall be suspended during the period that begins on the month in which the member is reemployed and ends six (6) months after the member's ***termination***[~~initial retirement date~~].

(b) The retired member shall repay to the retirement system all benefits ***paid from systems administered by Kentucky Retirement Systems under reciprocity, including medical insurance benefits,*** that the member received after reemployment began.

(c) Upon termination, or subsequent to expiration of the six (6) month period from the date of ***termination***[~~initial retirement~~], the retired member's retirement allowance based on his initial retirement account shall no longer be suspended and the member shall receive the amount to which he is entitled, including an increase as provided by KRS 61.691.

(d) Except as provided in subsection (7) of this section, if the position in which a retired member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a second member account established for him in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account.

(e) Upon termination, the retired member shall be entitled to benefits payable from his second retirement account.

(14)[~~(15)~~] (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he retired, the retired member shall continue to receive his retirement allowance.

(b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.

(15)[~~(16)~~] (a) If a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age, the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.

(b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.

(16)[~~(17)~~] A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 which he was eligible to purchase prior to his initial retirement.

Section 11. KRS 61.645 is amended to read as follows:

(1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of nine (9) members, who shall be selected as follows:

(a) The secretary of the Personnel Cabinet shall serve as trustee for as long as he occupies the position of secretary under KRS 18A.015, except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;

(c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;

(d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; and

(e) Three (3) trustees, appointed by the Governor of the Commonwealth. Of the three (3) trustees appointed by the Governor, one (1) shall be knowledgeable about the impact of pension requirements on local governments.

(2) The board is hereby granted the powers and privileges of a corporation, including, but not limited to, the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing, ***medical,*** and other professional ***or technical*** services as ***required to carry out the obligations of the board without limitation***[~~its statutory purpose may require~~], notwithstanding the provisions of KRS Chapters 45***,***[~~ and~~] 45A***, 56, and 57***;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease, or mortgage***, the goods or***[~~ any such~~]property ***necessary to exercise the board's powers and perform the board's duties without limitation***[~~as its purpose may require~~], notwithstanding the limitations of KRS Chapters 45, 45A, and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section. An elected trustee shall not serve more than three (3) consecutive four (4) year terms. An elected trustee who has served three (3) consecutive terms may be elected again after an absence of four (4) years from the board.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board may nominate, not less than six (6) months before a term of office of a trustee is due to expire, three (3) constitutionally eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the ***executive director***[~~general manager~~], not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members;

(c) Within four (4) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the ***executive director***[~~general manager~~] shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office located within Kentucky. Access to this post office box shall be limited to the board's contracted auditing firm. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall[~~ record his Social Security number,~~] sign[~~,~~] and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The board's contracted auditing firm shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and if the secretary of the Personnel Cabinet resigns his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more than one (1) position as trustee on the board, he shall resign a position.

(b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.

(7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of eighty dollars ($80) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the *executive director*[~~general manager~~]. It shall elect a chairman and a vice chairman. A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) *(a) The board of trustees shall appoint or contract for the services of an executive director and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapters 18A and 45A and KRS 64.640. The executive director shall be the chief administrative officer of the board.*

(b) The board of trustees shall authorize the executive director to appoint the employees deemed necessary to transact the business of the system. For an appointee deemed to be in a policy-making position, the board shall determine the compensation and other terms of employment for the policy-making position without limitation of the provisions of KRS Chapter 18A. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and control of determining and maintaining an adequate complement of employees shall be under the exclusive jurisdiction of the board of trustees.

(c) Effective December 1, 2002, all employees of the Kentucky Retirement Systems shall be transferred to a personnel system adopted by the board. Employees of Kentucky Retirement Systems covered by the personnel system adopted by the board shall be:

1. Provided the same health insurance coverage as all other state government employees as provided in KRS 18A.225;

2. Eligible to participate in the deferred compensation system provided for all state government employees as provided in KRS 18A.250 to 18A.265;

3. Provided the same life insurance coverage provided all state employees as provided in KRS 18A.205 to 18A.215;

4. Reimbursed for all reasonable and necessary travel expenses and disbursements incurred or made in the performance of official duties in accordance with KRS Chapter 45;

5. Ensured equal employment opportunity regardless of race, color, gender, religion, national origin, disability, sexual orientation, or age;

6. Given those holidays and rights granted to state employees as provided in KRS 18A.190;

7. Paid a salary not less than the salary paid as of the date of transfer to the personnel system, unless voluntarily demoted or involuntarily demoted for cause;

8. Credited with all accumulated sick leave, compensatory time, and annual leave accumulated in accordance with KRS Chapter 18A, and for an employee leaving service, the system shall attest to the employee's accumulated sick leave, compensatory time, and annual leave which shall be credited with other employers to the extent provided for by statute or policy;

9. Classified with status upon transfer to the personnel system on December 1, 2002, if the employee was classified with status as a merit employee under KRS Chapter 18A. Any employee of the Kentucky Retirement Systems transferred on December 1, 2002, during the probationary period before earning classified status as a merit system employee under KRS Chapter 18A shall transfer all accrued probationary time and the time shall be credited to the probationary time required to attain classified status in the personnel system;

10. Ensured a grievance appeal procedure and the employee's right to have a representative present at each step of the grievance procedure; and

11. Ensured of the right of appeal in a manner consistent with the provisions of KRS 18A.095 to the

Kentucky Personnel Board and employees classified with status in the personnel system shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.

(d) The board shall adopt by administrative regulation a fair, equitable, and comprehensive personnel policy with a minimum of the following provisions for the personnel system:

1. A code of conduct including provisions describing performance of duties, abuse of position, conflicts of interest, and outside employment;

2. An appointments plan including provisions describing the appointing authority, appointments, equal employment policy, sexual harassment policy, and drug-free workplace policy;

3. A classification plan including provisions describing class specifications, position actions, and employee actions;

4. A compensation plan based on qualifications, experience, and responsibilities and including provisions which describe a salary schedule, salary adjustments, salary advancements, and an employee suggestion program;

5. Separations, disciplinary actions, and appeal policies including provisions describing classified with status, exemptions from classified with status, layoffs, abolishment of position, dismissals and notification of dismissal, dismissals during probationary period, disciplinary actions, right of appeal, grievance and appeal procedures, and an employee grievance and appeal committee;

6. Service and benefits regulations including provisions describing hours of work, fringe benefits, workers' compensation, payroll deductions, holidays, inclement weather days, compensatory time, retirement, resignations, employee evaluations, and political activities; and

7. Leave policies including provisions describing special leave, annual leave, court leave and jury duty, military leave, voting leave, educational leave, sick leave, family medical leave, leave without pay, absence without leave, and blood donation leave.[~~The board shall:~~

~~(a) Appoint or contract for the services of a general manager and fix his compensation without limitation by the provisions of KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board;~~

~~(b) Authorize the general manager to appoint the employees he deems necessary. Appointees deemed to be in a policy-making position shall be unclassified and their salaries shall be determined by the board. Other appointees shall be subject to the personnel classification system and salaries shall be subject to the secretary of the Personnel Cabinet;~~]

(e)[~~(c)~~] ***The board shall*** require the ***executive director***[~~general manager~~] and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62***.***[~~;~~]

(f)[~~(d)~~] ***The board shall*** establish a system of accounting***.***[~~; and~~]

(g)[~~(e)~~] ***The board shall*** do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852, necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852 conform with federal statute or regulation and meet the qualification requirements under 26 U.S.C. sec. 401(a). Provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852 which conflict with federal statute or regulation or qualification under 26 U.S.C. sec. 401(a) shall not be available to the member. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation and to meet the qualification requirements under 26 U.S.C. sec. 401(a).

(10) All employees of the board shall serve during its will and pleasure. Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.

(11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and may receive the agenda, board minutes, and other information distributed to trustees of the board upon request. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.

(12) The system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the ***executive director***[~~general manager~~] of the Kentucky Retirement Systems and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days

after receipt by the board.

(13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

(14) Any person adversely affected by a decision of the board, except as provided under subsection (16) of this section or KRS 61.665, involving KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

1. In good faith;
2. On an informed basis; and
3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;
2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by paragraph (c) of this subsection unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and
2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e)1. and (e)2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

(16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, the affected member, retired member, or recipient may request a hearing to be held in accordance with KRS Chapter 13B. ***The board may establish an appeals committee whose members shall be appointed by the chairman and who shall have authority to act upon the recommendations and reports of the hearing officer on behalf of the board.*** The member, retired member, or recipient aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court, in accordance with KRS Chapter 13B.

(17) The board shall give the Kentucky Education Support Personnel Association twenty-four (24) hours notice of the board meetings, to the extent possible.

Section 12. KRS 61.650 is amended to read as follows:

(1) ***(a)*** The board shall be the trustee of the several funds created by KRS 16.510, 61.515, 61.701, and 78.520***, notwithstanding the provisions of any other statute to the contrary,*** and shall have ***exclusive***[~~full~~] power to invest and reinvest such funds ***in accordance with federal law.***

(b) The board may establish an investment committee whose members shall be appointed by the board chairperson. The investment committee shall have authority to implement policy and act on behalf of the board on all investment-related matters with full power to acquire, sell, safeguard, monitor, and manage the assets and securities of the several funds.

(c) A trustee or other fiduciary shall discharge duties with respect to the retirement system:

1. Solely in the interest of the members and beneficiaries;

2. *For the exclusive purpose of providing benefits to members and beneficiaries and paying reasonable expenses of administering the system;*
3. *With the care, skill, and caution under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;*
4. *Impartially, taking into account any differing interests of members and beneficiaries;*
5. *Incurring any costs that are appropriate and reasonable; and*
6. *In accordance with a good-faith interpretation of the law governing the retirement system.*[~~, subject to the limitations that no investments shall be made except in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state, except that the board may at its discretion purchase common stocks in corporations that do not have a record of paying dividends to their stockholders and may acquire real estate without obtaining the approval of the District Court as set forth in KRS 386.020(1)(h). Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of, any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds. The board members or any investment manager shall discharge their duties with respect to the assets of the several funds solely in the interest of the members and beneficiaries and:~~

~~(a) For the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan;~~

~~(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and~~

~~(c) In accordance with the laws, administrative regulations and other instruments governing the several funds.~~]

(2) All registered securities acquired under authority of KRS 61.510 to 61.705 shall be registered in the name "Kentucky Retirement Systems of the Commonwealth of Kentucky" or nominee name as provided by KRS 287.225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the chairman or a trustee appointed by the chairman and the general manager of the board of trustees.

(3) The board, in keeping with its responsibility as trustee and wherever consistent with its fiduciary responsibilities, shall give priority to the investment of funds in obligation calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

(4) The contents of real estate appraisals, engineering or feasibility estimates, and evaluations made by or for the system relative to the acquisition or disposition of property, until such time as all of the property has been acquired or sold, shall be excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction.

Section 13. KRS 61.680 is amended to read as follows:

(1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852, and to all other provisions thereof. Thereafter, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4).

(2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and Teachers' Retirement System*, except for service prohibited by KRS 161.623(2),* shall be consolidated for the purpose of determining eligibility and amount of benefits. Vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education and accepted by the Kentucky Employees Retirement System or the County Employees Retirement System, may be used to determine eligibility for twenty-seven (27) year retirement but not the amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation*, excluding compensation earned under KRS 161.155(9),* shall be determined as if all service were in one (1) system. If the member has prior service in more than one (1) system, he shall obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate the prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits, each system shall pay the applicable percentage of total benefits.

(b) The provisions of paragraph (a) of this subsection shall be waived if the member notifies the system of his desire to maintain separate retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System, or County Employees Retirement System[~~, or if he is a member of the State Police Retirement System or is working in a hazardous position under the Kentucky Employees Retirement System or County Employees Retirement System and as a result of an act in line of duty, becomes disabled or deceased~~].

(c) If the member has not contributed at least one (1) year in a system in which he has prior service, his current service in the system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.

(3) A member with service credit in the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System who becomes the holder of an office entitling him to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, but who does not elect within thirty (30) days after taking office in such service to participate in the plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System. In that event, the agency employing the member shall withhold employee contributions, or picked-up employee contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership. Any person entitled to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, who does not elect within thirty (30) days after taking office to participate in the plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the Teachers' Retirement System, shall participate in the Kentucky Employees Retirement System. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the system in which the employer of the nonelected position participates. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is not employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the Kentucky Employees Retirement System.

(4) (a) Prior to July 1, 1976, a person entering the service of an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System with service credit in the Teachers' Retirement System and who desires to retain membership in the Teachers' Retirement System, and who is permitted by that system to continue, shall be exempt from participating in the Kentucky Employees Retirement System or the County Employees Retirement System.

(b) Any person who has elected to retain membership in the Teachers' Retirement System as provided in paragraph (a). of this subsection may cancel his election and participate in the system under which his position would normally participate, if he elects to cancel his option prior to January 1, 1977.

(c) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System and who does not elect within thirty (30) days after taking office to participate in the Legislators' Retirement Plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky Employees Retirement System unless an election to retain membership in the Teachers' Retirement System is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the Teachers' Retirement System for the same period of service under the Legislators' Retirement Plan or the Kentucky Employees Retirement System as a member of the General Assembly, but contributions made to the Teachers' Retirement System while a member of the General Assembly shall be transferred to the Legislators' Retirement Plan, as provided for in KRS 6.535, when the member elects to join the Legislators' Retirement Plan, and service credit in the Legislators' Retirement Plan shall be granted as provided for in KRS 6.505(3).

(5) Effective July 1, 1974, any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in a position covered by one (1) of these retirement systems and his employee contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up the employee contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership, as subsection (2) of this section eliminates the necessity of the transfers.

(6) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in more than one (1) position covered by the same retirement system, shall have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, an accumulation of all hours worked within the same retirement system shall be used to determine eligibility under KRS 61.510(21).

(7) Notwithstanding the provisions of subsection (2) of this section, a person who does not have the amount of service required for service retirement in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System, but who is a member of one (1) of the systems or is a former member of one (1) or more of the systems with valid service credit therein, shall become eligible for service retirement benefits attributable to the amount of his actual service credit in each system in which he has service credit when his combined service credit in all the systems, plus any service credit he has in the Judicial Retirement Plan, is equal to that required for service retirement in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system***, except that total service in all systems, unless prohibited by KRS 161.623(2), shall be used to determine the reduction for early retirement, if any***. The final compensation shall be determined by using the creditable compensation reported to the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or

Teachers' Retirement System and only as much of the compensation earned in the Judicial Retirement Plan as is needed to satisfy the final compensation requirement applicable in the respective retirement systems.

(8) Each retirement system from which the member retires shall pay a retirement allowance upon receipt of required forms and documents, except that no retirement system shall pay a retirement allowance or annuity until all forms and documents are filed at all retirement systems in compliance with each system's requirements.

Section 14. KRS 61.690 is amended to read as follows:

(1) All retirement allowances and other benefits accrued or accruing to any person under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, and the accumulated contributions and cash securities in the funds created under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process, and an assignment thereof shall not be enforceable in any court. Except retirement benefits accrued or accruing to any person under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852 on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(2)[~~A retirement allowance, a disability allowance, a member's accumulated contributions, or any other benefit under the system shall not be classified as marital property or as an economic circumstance as provided in KRS 403.190 in an action for dissolution of marriage.~~

~~(3)~~] Child support orders for current, owed, or to-be- owed child support, issued by a court or administrative agency shall be honored by the retirement systems if the orders are in compliance with the regulation adopted by the board pursuant to KRS 61.645(9)*(g)*[~~(e)~~].

Section 15. KRS 61.701 is amended to read as follows:

(1) There is hereby created and established a state fund to be known as "Kentucky Retirement Systems Insurance Fund."

(2) The fund is created ***pursuant to 26 U. S. C. sec. 106*** for the purpose of providing a fund separate from the retirement funds and is to be used to provide fringe benefits as provided in KRS 61.702 to retired recipients and employees of employers participating in the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, and to certain of their dependents or beneficiaries.

(3) The fund shall be administered by the board of trustees of the Kentucky Retirement Systems and the board shall manage the assets of the fund in the same manner in which it administers the retirement funds.

Section 16. KRS 61.705 is amended to read as follows:

(1) Upon the death of a retired member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System who *was receiving a monthly retirement allowance based on*[~~had~~] a minimum of forty-eight (48) months of service *or whose retirement allowance based on a minimum of forty-eight (48) months was suspended in accordance with Section 10 of this Act*, a death benefit of five thousand dollars ($5,000) shall be paid. If the retired member had more than one (1) account in the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System, the system shall pay only one (1) five thousand dollar ($5,000) death benefit. Application for the death benefit made to the Kentucky Retirement Systems shall include acceptable evidence of death and of the eligibility of the applicant to act on the deceased retired member's behalf.

(2) The death benefit shall be paid to a beneficiary named by the retired member. Upon retirement or any time thereafter, the retired member may designate on the form prescribed by the board, death benefit designation, an individual, his estate, a trust or trustee as the beneficiary of the death benefit. The beneficiary for the death benefit may or may not be the same beneficiary designated in accordance with KRS 61.590(1). If the beneficiary designated under this section dies prior to the member or if the beneficiary was the spouse and they were divorced on the date of the retired member's death, the retired member's estate shall become the beneficiary, unless the retired member has filed a subsequent death benefit designation.

SECTION 17. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO READ AS FOLLOWS:

(1) Upon the death of a member, retiree, or recipient who has an existing account or other benefit in a retirement system administered by the Kentucky Retirement Systems that totals no more than one thousand dollars ($1,000), the surviving spouse, or if none, a surviving child, or if none, a surviving parent, or if none, a surviving brother or sister, may without formal administration of the estate collect the account subject to the provisions of this section.

(2) The surviving spouse, child, parent, or brother or sister who makes demand for the deceased member, retiree, or recipient account shall file with the retirement office an affidavit stating that he or she is entitled to payment of the account. The affidavit shall conform to the requirements of the administrative regulation promulgated by the board.

(3) After having paid the account to the surviving spouse, child, parent, or brother or sister, the retirement system shall be discharged and held harmless to the same extent as if conducting business with a personal representative. The retirement system shall not be required to inquire into the truth or veracity of any statement made in the affidavit. In the event any person or entity establishes a superior right to the account, the surviving spouse, child, parent, or brother or sister, and not the Kentucky Retirement Systems, shall be answerable and accountable to any appointed personal representative for the estate.

Section 18. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation", including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer. If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, ***lump-sum*** payments[~~ received after the date of termination of employment~~] for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board shall be excluded. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" means:

(a) For a member who is employed in a nonhazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; or

(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used.

Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance; or

(c) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or

(d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula ***in Section 24 of this Act***[~~adopted by the board for purchase of service under KRS 61.552(9)~~], except the ***determination of the actuarial cost for classified employees of a school board***

shall be based on their final compensation[~~employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer~~], and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615; and

(32) "Month" means a calendar month.

Section 19. KRS 78.606 is amended to read as follows:

(1) Upon retirement, a noncertified employee shall have his service credit earned after July 1, 1998, recalculated in accordance with KRS 78.615 except that the employee shall receive service credit determined by dividing the actual number of contracted days worked by twenty (20) and rounding any remainder to the next whole month, provided that the number of hours worked during the period averages eighty (80) or more hours.

(2)[~~Each school board for whom the employee worked shall pay the cost of the additional months of service credited to the employee for school years reported by the school board. The cost shall be the member and employer contributions that would have been paid on the employee's average monthly salary for each school year plus interest at the actuarial rate. Payment shall be due at the retirement office within thirty (30) days of receipt of notice from the retirement system. If the school board does not make the payment within thirty (30) days, interest at the actuarial rate shall be added to the payment for each additional thirty (30) days after payment is due.~~

~~(3) An employee who takes a refund, in accordance with KRS 61.625, of contributions made as an employee of a school board shall not be entitled to additional months service credit under subsection (1) of this section for the period covered by the refund. If the employee repays the refund as provided by KRS 61.552(1), the employee may have his service recalculated under the provisions of subsection (1) of this section for the period covered by the refund if the member pays the cost of the additional months prior to his retirement. The cost shall be the same as for the employer. The payment shall be credited to the member's account.~~

~~(4)~~] The Kentucky Retirement Systems shall adjust the service credit for all affected members who earned service credit for the school years 1996-97 and 1997-98 by recomputing the members' service based on the rounding method provided in subsection (1) of this section.

Section 20. KRS 78.615 is amended to read as follows:

(1) Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the system while he is classified as regular full-time as defined in KRS 78.510 unless the person did not elect to become a member as provided by KRS 61.545(3) or by KRS 78.540(2). After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 78.610(4).

(a) For employees who are not employed by a school board, service credit shall be allowed for each month contributions are deducted or picked up during a fiscal or calendar year, if the employee receives creditable compensation for an average of one hundred (100) hours or more of work per month based on the actual hours worked in a calendar or fiscal year. If the average number of hours of work is less than one hundred (100) hours per month, the employee shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(b) For noncertified employees of school boards, for service prior to July 1, 2000, service credit shall be allowed for each month contributions are deducted or picked up under the employee's employment contract during a school year determined by dividing the actual number of contracted ***calendar*** days worked by twenty (20) and rounded to the nearest whole month if the employee receives creditable compensation for an average of eighty (80) or more hours of work per month based on the employee's employment contract. The school board shall certify the number of ***calendar*** days worked, the rate of pay, and the hours in a work day for each employee monthly or annually. The employer shall file at the retirement office the final monthly report or the annual report for a fiscal year no later than twenty (20) days following the completion of the fiscal year. The retirement system shall impose a penalty on the employer of one thousand dollars ($1,000) if the information is not submitted by the date required with an additional two hundred and fifty dollars ($250) for each additional thirty (30) day period the information is reported late.

1. If the employee works fewer than the number of contracted ***calendar*** days, the employee shall receive service credit determined by dividing the actual number of contracted ***calendar*** days worked by twenty (20) and rounded to the nearest whole month, provided that the number of hours worked during the period averages eighty (80) or more hours.

2. If the employee works fewer than the number of contracted ***calendar*** days and the average number of hours worked is less than eighty (80) per month, then the employee shall receive service credit for each calendar month in which he worked eighty (80) or more hours.

3. The retirement system shall refund contributions and service credit for any period for which the employee is not given credit under this subsection.

(c) For noncertified employees of school boards, for service on and after July 1, 2000, at the close of each fiscal year, the retirement system shall add service credit to the account of each ***employee***[~~member~~] who made contributions to his or her account during the year. ***Employees***[~~Members~~] shall be entitled to a full year of service credit if their total paid ***calendar*** days were not less than one hundred eighty (180) ***calendar*** days for a regular school or fiscal year. In the event ***an employee***[~~a member~~] is paid for less than one hundred eighty (180) ***calendar*** days, the ***employee***[~~member~~] may purchase credit according to administrative regulations promulgated by the system. In no case shall more than one (1) year of service be credited for all service performed in one (1) fiscal year. ***Employees***[~~Members~~] who complete their employment contract prior to the close of a fiscal year and elect to retire prior to the close of a fiscal year shall have their service credit reduced by eight percent (8%) for each calendar month that the retirement becomes effective prior to July 1. ***Employees***[~~Members~~] who are employed and paid for less than the number of ***calendar*** days required in their normal employment year shall be entitled to pro rata service credit for the fractional service. This credit shall be based upon the number of ***calendar*** days employed and the number of ***calendar*** days in the ***employee's***[~~member's~~] annual employment agreement or normal employment year. Service credit may not exceed the ratio between the school or fiscal year and the number of months or fraction of a month the ***employee***[~~member~~] is employed during that year.

(d) Notwithstanding paragraph (c) of this subsection, a noncertified employee of a school board who retires between July 1, 2000, and August 1, 2001, may choose to have service earned between July 1, 2000, and August 1, 2001, credited as described in paragraph (b) of this subsection***, if the employee or retired member notifies the retirement system within one (1) year of his initial retirement. The decision once made shall be irrevocable***.

(2) Employee contributions shall not be deducted from the creditable compensation of any employee or picked up by the employer while he is seasonal, emergency, temporary, or part-time. No service credit shall be earned.

(3) Contributions shall not be made or picked up by the employer and no service credit shall be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave who meets the criteria established by the state Personnel Cabinet for approved educational leave, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay member contributions in accordance with KRS 78.610, and his employer shall pay employer contributions or the contributions shall be picked up in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded.

(4) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made to the retirement system and any interest credited in accordance with KRS 78.640.

Section 21. KRS 78.616 is amended to read as follows:

(1) Any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employee.

(2) Participation under this section shall be at the option of each participating employer. The election to participate shall be made by the governing authority of the participating employer and shall be certified in writing to the system on forms prescribed by the board. The certification shall provide for equal treatment of all employees participating under this section.

(3) (a) Upon the member's notification of retirement as prescribed in KRS 61.590, the employer shall certify the retiring employee's unused, accumulated sick-leave balance to the system. The member's sick-leave balance, expressed in days, shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. A maximum of six (6) months of the member's sick-leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 78.510 to 78.852 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 78.510 to 78.852. Accumulated sick-leave in excess of six (6) months shall be added to the member's service credit if the member or employer pays to the retirement system the value of the additional service credit based on the formula adopted by the board.

(b) The employer may elect to pay fifty percent (50%) of the cost of the sick leave in excess of six (6) months on behalf of its employees. The employee shall pay the remaining fifty percent (50%). The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payments are received by the retirement system.

(c) Once the employer elects to pay all or fifty percent (50%) of the cost on behalf of its employees, it shall continue to pay the same portion of the cost.

(4) The system shall compute the cost of the sick-leave credit of each retiring employee and bill each employer with whom the employee accrued sick leave accordingly. The employer shall remit payment within thirty (30) days from receipt of the bill.

(5) As an alternative to subsections (1), (3), (4), and (6) of this section, any agency participating in the County Employees

Retirement System which has formally adopted a sick-leave program that is universally administered to its employees, or administered to a majority of eligible employees in accordance with subsection (6) of this section, shall, at the time of termination, ***or as provided in KRS 161.155 in the case of school boards,*** compensate the employee for unused sick-leave days the employee has accumulated which it is the uniform policy of the agency to allow. The rate of compensation for each unused sick-leave day shall be based on the daily salary rate calculated from the employee's current rate of pay. Payment for unused sick-leave days shall be incorporated into the employee's final compensation if the employee and employer make the regular employee and employer contributions, respectively, on the sick-leave payment. The number of sick-leave days for which the employee is compensated shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. This number of months shall be added to the employee's total service credit and to the number of months used to determine creditable compensation, pursuant to KRS 78.510, but no more than sixty (60) months shall be used to determine final compensation.

(6) Any city of the first class that has two (2) or more sick-leave programs for its employees may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employee who participates in the sick-leave program administered to a majority of the eligible employees of the city. An employee participating in a sick-leave program administered to a minority of the eligible employees shall become eligible for the purchase of service credit under this subsection when the employee commences participating in the sick-leave program that is administered to a majority of the eligible employees of the city.

Section 22. KRS 78.625 is amended to read as follows:

(1) The agency reporting official of the county shall, by the tenth day of each month, forward to the system an amount equal to the aggregate amount of the employees' contributions deducted during the previous month in accordance with KRS 78.610 and the aggregate amount of the employer's contributions due for the previous month in accordance with KRS 61.565.

(2) The agency reporting official or some other person designated by the county shall forward a record of all contributions to the system on the forms the board prescribes.

(3) (a) If the agency reporting official fails to forward all contributions ***by the twentieth***[~~within twenty (20) days of the tenth~~] day of the month following the period being reported, interest at the actuarial rate adopted by the board compounded annually on the delinquent contributions, but not less than one hundred dollars ($100), shall be added to the amount due the system.

(b) Delinquent contributions, with interest at the rate adopted by the board compounded annually, or penalties may be recovered by action in the Franklin Circuit Court against the county liable or may, at the request of the board, be deducted from any other moneys payable to the county by any department or agency of the state.

(4) If an agency is delinquent in the payment of contributions due in accordance with any of the provisions of KRS 78.510 to 78.852, refunds and retirement allowance payments to members of this agency may be suspended until the delinquent contributions have been made.

Section 23. KRS 78.545 is amended to read as follows:

The following matters shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

(1) Cessation of membership, conditions, as provided for by KRS 61.535;
(2) Statement of member and employer, as provided for by KRS 61.540;
(3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;
(4) Service credit determination, as provided for by KRS 61.545;
(5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
(6) Service credit, Armed Forces, as provided for by KRS 61.555;
(7) Normal and early retirement eligibility requirements, as provided for by KRS 61.559;
(8) Retirement allowance increases as provided for by KRS 61.691;
(9) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;
(10) Disability retirement, conditions, as provided for by KRS 61.600;
(11) Disability retirement, allowance, as provided for by KRS 61.605;
(12) Medical examination after disability retirement, as provided for by KRS 61.610;
(13) Disability retirement allowance, reduction, as provided for by KRS 61.615;
(14) Determination of retirement allowance, as provided for by KRS 61.595;
(15) Refund of contributions, conditions, as provided for by KRS 61.625;
(16) Refund of contributions, death after retirement, as provided for by KRS 61.630;
(17) Optional retirement plans, as provided for by KRS 61.635;
(18) Suspension of retirement payments on reemployment, reinstatement, as provided for by KRS 61.637;

(19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;

(20) Board of trustees, conflict of interest, as provided for by KRS 61.655;

(21) Custodian of funds, payments made, when, as provided for by KRS 61.660;

(22) Medical examiners and hearing procedures, as provided for by KRS 61.665;

(23) Actuarial bases, as provided for by KRS 61.670;

(24) Employer's administrative duties, as provided for by KRS 61.675;

(25) Correction of errors in records, as provided for by KRS 61.685;

(26) Exemptions of retirement allowances, as provided for by KRS 61.690;

(27) Credit for service prior to membership date, as provided for by KRS 61.526;

(28) Creditable compensation of fee officers, as provided for by KRS 61.541;

(29) Transfer of dormant accounts, as provided for by KRS 61.626;

(30) Members' account, confidential, as provided for by KRS 61.661;

(31) Retirement plan for employees determined to be in a hazardous position, as provided for by KRS 61.592;

(32) Maximum disability benefit, as provided for by KRS 61.607;

(33) Consent of employees to deductions and reciprocal arrangement between systems, as provided for by KRS 61.680;

(34) Employer contributions, as provided for by KRS 61.565;

(35) Recontribution and delayed contribution payments, purchase of service credit, interest, and installment payments, as provided for by KRS 61.552;

(36) Hospital and medical insurance plan, as provided by KRS 61.702;

(37) Death benefit, as provided by KRS 61.705;

(38) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;

(39) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;

(40) Disability procedure for members in hazardous positions as provided for in KRS 16.582;

(41) Direct deposit of recipient's retirement allowance as provided for in KRS 61.623;

(42) Death or disability from a duty-related injury as provided in KRS 61.621;[~~ and~~]

(43) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525***; and***

(44) Payment of small accounts upon death of member, retiree, or recipient without formal administration of the estate as provided in Section 17 of this Act.

Section 24. KRS 61.5525 is amended to read as follows:

(1) Effective July 1, 2001, purchase of service under the provisions of KRS 16.505 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852, except as provided in subsection (2) of this section, shall be determined by multiplying the higher of the employee's current rate of pay, final rate of pay, or final compensation as of the end of the month in which the purchase is made times the actuarial factor times the number of years of service being purchased.

(2) This provision shall not apply to KRS 61.552(1) and ***(23)***[~~(24)~~], or KRS 61.592(3)(c).

Section 25. KRS 61.600 is amended to read as follows:

(1) Any person may qualify to retire on disability, subject to the following conditions:

- (a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1);
- (b) The person shall not be eligible for an unreduced retirement allowance;
- (c) The person's application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment, as defined in KRS 61.510, in a regular full-time position, as defined in KRS 61.510 or 78.510;
- (d) The person shall receive a satisfactory determination pursuant to KRS 61.665;[~~ and~~]
- (e) A person's disability application based on the same claim of incapacity shall be accepted and reconsidered for disability if accompanied by new objective medical evidence. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment in a regular full-time position***; and***
- ***(f) A person who had previously applied for and was denied disability benefits by the board on or before December 31, 1996, because of the pre-existing disease of poliomyelitis may file a new application for disability benefits no later than December 31, 2002, at the office of the retirement systems, and subsection(2)(d) of this section shall not apply to the new application if the person applying under this paragraph has at least ten (10) years of current or prior service for employment with employers participating in the retirement systems administered by***

__the Kentucky Retirement Systems__.

(2) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:

(a) The person, since his last day of paid employment, has been mentally or physically incapacitated to perform the job, or jobs of like duties, from which he received his last paid employment. In determining whether the person may return to a job of like duties, any reasonable accommodation by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered;

(b) The incapacity is a result of bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;

(c) The incapacity is deemed to be permanent; and

(d) The incapacity does not result directly or indirectly from bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent. For purposes of this subsection, reemployment shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.

(3) Paragraph (d) of subsection (2) shall not apply if:

(a) The incapacity is a result of bodily injury, mental illness, disease, or condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or

(b) The person has at least sixteen (16) years' current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

(4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a regular full-time position.

2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.

(b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.

(c) The person's physical exertion requirements shall be determined based on the following standards:

1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.

2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.

3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.

4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.

5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

Representative Barrows moved that the House concur in the Senate Committee Substitute to **HB 309**. Agreed.

Representative Barrows moved that **HB 309**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 1**. (See March 8, 2002, Message received on roll call on **HB 309** - Appendix)

HB 309, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 309**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 283 with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non concurrence in Senate Amendment. Agreed.

The Senate Committee Substitute to **HB 283**, is as follows:

HB 283, AN ACT relating to medical assistance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.6312 is amended to read as follows:

(1) The cabinet shall institute nominal copayments or similar charges to be paid by medical assistance recipients, their spouses, or parents, ***under the provisions of Section 1916 of Title XIX of the Federal Social Security Act, 42 U.S.C. sec. 1396o***[~~within the limitations of federal law and regulation~~].

(2) Copayments or similar charges shall not be imposed for the following services:

(a) All services provided to children under eighteen (18) years of age;

(b)[~~All optional services provided to children under twenty-one (21) years of age;~~

~~(c)~~] All services furnished to pregnant women***, if the services relate to the pregnancy or to any other medical condition which may complicate the pregnancy***;

(c)[~~(d)~~]Emergency services including hospital, clinic, office, or other facility services which are necessary to prevent the death or serious impairment of the individual;

(d)[~~(e)~~]Services furnished to institutionalized individuals if the individual is required, as a condition of receiving services, to spend all but a minimal amount of income for personal needs;

(e) Services furnished for an individual who is receiving hospice care as defined under Section 1905 of Title XIX of the Federal Social Security Act, 42 U.S.C. sec. 1396d(o); and

(f)[~~Prescriptions for maintenance pharmaceuticals; and~~

~~(g)~~] Other services excluded from cost sharing by federal law or regulation.

(3) Prepaid health plan programs, such as health maintenance organizations and health insuring organizations under contract with the cabinet to provide services to medical assistance recipients, shall not be subject to the requirements of this section.

(4) Standard nominal copayments per service, not to exceed amounts ***allowable***[~~allowed~~] under ***Section 1916 of Title XIX of the Federal Social Security Act, 42 U.S.C. sec. 1396o***[~~42 C.F.R. Chapter IV, as amended,~~] shall be collected by the provider and charged for the following services:

(a) Ambulance services which are provided to recipients in need of nonemergency health transportation services;[~~ and~~]

(b) Nonemergency services delivered in a hospital emergency room***; and***

(c) Prescription and over-the-counter drugs, subject to the limitation under subsection (7) of this section.

(5) No provider participating in the Medical Assistance Program shall deny services to any eligible recipient due to the inability of a recipient to make the required copayment. This provision shall not excuse the recipient from liability for payment of the charge.

(6) The cabinet shall promulgate administrative regulations under KRS Chapter 13A to implement the provisions of this section.

(7) Any copayment for a prescription or over-the-counter drug shall not exceed one dollar ($1.00).

Representative Nunn moved that the House concur in the Senate Committee Substitute to **HB 283**. Agreed

Representative Nunn moved that **HB 283**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**.(See March 8, 2002, Message received on roll call on **HB 283** - Appendix)

HB 283, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 283**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 97, with Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non concurrence in Senate Amendments. Agreed.

The Senate Floor Amendment No. 3 to **HB 97** is as follows:

On Page 1, line 4, after "Peace officers,", by inserting and underlining "***Commonwealth attorneys, county attorneys, justices and judges of the Court of Justice, and jailers, if approved by the fiscal court,***".

The Senate Floor Amendment No. 4 Title to **HB 97** is as follows:

Amend title to read, "AN ACT relating to the carrying of concealed weapons by public officials.".

Representative Riggs moved that the House refuse to concur in the Senate Floor Amendment No. 3 and Senate Floor Amendment No. 4 Title to **HB 97**. Agreed.

HB 330, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non currence in Senate Amendment. Agreed.

The Senate Committee Amendment No. 1 to **HB 330** is as follows:

On page 4, line 21 delete "***may***" and insert "***shall***" in lieu thereof.

Representative Miller moved that the House concur in the Senate Committee Amendment No. 1 to **HB 330**. Agreed.

Representative Miller moved that **HB 330**, as amended, by the Senate, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 8, 2002, roll call on **HB 330** - Appendix.)

HB 330, as amended, by the Senate, was passed and the title agreed to.

Representative Miller moved that the vote by which **HB 330**, as amended, by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 353, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non concurrence in Senate Amendment. Agreed.

The Senate Committee Amendment No. 1 to **HB 353** is as follows:

On page 3, line 11 through line 18, by deleting all new text and inserting in lieu thereof:

"***Upon fulfilling the requirements of Section 3 of this Act, a student with asthma may possess and use asthma medications when at school, at a school-sponsored activity, under the supervision of school personnel, or before and after normal school activities while on school properties including school-sponsored child care or after-school programs.***".

Representative Marzian moved that the House concur in the Senate Committee Amendment No. 1 to **HB 353**. Agreed.

Representative Marzian moved that **HB 353**, as amended, by the Senate, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 8, 2002, roll call on **HB 353** - Appendix.)

HB 353, as amended, by the Senate, was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 353**, as amended, by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 207, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non concurrence in Senate Amendment. Agreed.

The Senate Committee Amendment No. 1 to **HB 207** is as follows:

On page 2, line 16, after "***designers,***" insert "***retailers of consumer products or their employees,***".

Representative Crimm moved that the House concur in the Senate Committee Amendment No. 1 to **HB 207**. Agreed.

Representative Crimm moved that **HB 207**, as amended, by the Senate, be passed.

On the roll call the vote was: **Yeas 78, Nays 8**. (See March 8, 2002, roll call on **HB 207** - Appendix.)

HB 207, as amended, by the Senate, was passed and the title agreed to.

Representative Crimm moved that the vote by which **HB 207**, as amended, by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 244, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non concurrence in Senate Amendment. Agreed.

The Senate Committee Substitute to **HB 244** is as follows:

HB 244, AN ACT relating to environmental protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.46-580 is amended to read as follows:

(1) The General Assembly declares that it is the purpose of this section to promote the development of statewide programs, under the responsibility of a single agency, which are intended to protect the health of the citizens and the environment of the Commonwealth from present and future threats associated with the management of hazardous wastes and the release of toxic chemicals regulated under Title III, Section 313 of the Superfund Amendments and Reauthorization Act of 1986, including disposal, treatment, recycling, storage, and transportation. The intent of the General Assembly is to add to and coordinate, and not replace, existing efforts and responsibilities in the areas of hazardous waste management, toxic chemical manufacture, processing, or other use, and to leave the primary burden and responsibility for hazardous waste and toxic chemical reduction on private industry; and further to finance assistance and coordination by imposing assessments on the generation of hazardous waste. The assessments are intended to produce a reduction in waste generated; to promote the use of new techniques in recycling, treatment, and alternatives other than land disposal; and to place the burden of financing additional hazardous waste management activities necessarily undertaken by state agencies on the users of those products associated with the generation of hazardous waste. The General Assembly further finds that Kentucky's industries need assistance in developing and implementing pollution prevention goals and that a fund should be established to provide technical and financial assistance to those industries.

(2) The Natural Resources and Environmental Protection Cabinet is given the authority to administer the provisions and programs of this section and the responsibility to achieve the purposes of this section.

(3) In addition to all specific responsibilities contained elsewhere in this chapter, the cabinet shall:

(a) Respond effectively and in a timely manner to emergencies created by the release of hazardous substances, as defined in KRS 224.01-400, into the environment. The cabinet shall provide for adequate containment and removal of the hazardous substances in order that the threat of a release or actual release of the substance may be abated and resultant harm to the environment minimized. The provisions of KRS 45A.695 to 45A.725 may be suspended by the cabinet if necessary to respond to an environmental emergency.

(b) Provide for post-closure monitoring and maintenance of hazardous waste disposal sites upon termination of post-closure monitoring and maintenance responsibilities by persons permitted to operate the facility pursuant to this chapter.

(c) Identify, investigate, classify, contain, or clean up any release, threatened release, or disposal of a hazardous substance where responsible parties are economically or otherwise unavailable to properly address the problem and the problem represents an imminent danger to the health of the citizens and the environment of the Commonwealth.

(4) The cabinet shall have the authority to finance the nonfederal share of the cost for clean up of sites under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Pub. L. 96-510).

(5) The cabinet shall recover, when possible, actual and necessary expenditures incurred in carrying out the duties under this section. Any expenditures recovered shall be placed in the hazardous waste management fund.

(6) It is the expressed purpose of this section to accomplish effective hazardous waste and toxic chemical management that

results in a reduction of the generation of hazardous wastes and the release of toxic chemicals within the Commonwealth; further, it is a purpose of this chapter to allocate a portion of the cost of administering necessary governmental programs related to hazardous waste and toxic chemical management to those industries whose products are reasonably related to the generation of hazardous waste.

(7) There is hereby imposed upon every person engaged within this state in the generation of hazardous waste an annual hazardous waste assessment to be determined pursuant to this section according to the quantity by weight of hazardous waste generated, except that no assessment shall be levied against generators for any quantity of "special wastes," waste oil, or spent material from air pollution control devices controlling emissions from coke manufacturing facilities. The assessment shall not be imposed upon any person for any quantities of hazardous waste generated by others for which that person is a secondary handler that stores, processes, or reclaims the waste. The assessment shall be reported and paid to the Natural Resources and Environmental Protection Cabinet for the generation of hazardous waste on an annual basis on January 1 of each year. The payment shall be accompanied by a report or return in a form that the cabinet may prescribe. If a federal law is enacted which accomplishes or purports to accomplish the purposes set forth in this section and which levies an assessment or tax upon any business assessed pursuant to this section, the amount of the assessment to be levied upon the business under this section shall be reduced by the amount of the federal assessment or tax upon the business. The reduction shall only be authorized when funds raised by the federal assessment or tax are made available to the state for any of the activities to be funded under this section. If federal moneys are available to carry out the duties imposed by subsection (3) of this section, the assessment shall cease to be levied and collected until such time as federal moneys are no longer available to the Commonwealth for these purposes. The assessment shall be charged against generators of hazardous waste until June 30, ***2004***[~~2002~~]. After this date, no further hazardous waste management assessment shall be charged against generators.

(8) The assessment on generators shall be one and two-tenths cents ($0.012) per pound if the waste is liquid, or two-tenths of a cent ($0.002) per pound if the waste is solid.

(a) Hazardous waste that is injected into a permitted underground injection well shall be assessed on a dry weight basis;

(b) Hazardous waste treated, detoxified, solidified, neutralized, recycled, incinerated, or disposed of on-site shall be assessed at one-half (1/2) of the appropriate rate, except for recycled waste used in the steel manufacturing process which shall be exempt;[~~ and~~]

(c) Waste that is subject to regulation under Section 402 or 307B of the Federal Clean Water Act shall be exempt***; and***

(d) Emission control dust and sludge from the primary production of steel that is recycled by high temperature metals recovery or managed by stabilization of metals shall be exempt.

(9) Except for waste brought into the state by a company to an affiliated manufacturing facility of the company receiving the waste, any person who transports hazardous waste into the state for land disposal or treatment which is generated outside of the state shall pay an assessment to the hazardous waste facility which first receives the waste for storage, treatment, or land disposal. The assessment rate shall be identical to the rate described in subsection (8) of this section. The facility shall remit the assessment to the cabinet on an annual basis on January 1 of each year. The payment shall be accompanied by a return the cabinet shall prescribe.

(10) If any generator or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section fails or refuses to file a return or furnish any information requested in writing by the cabinet, the cabinet may, from any information in its possession, make an estimate and issue an assessment against the generator or hazardous waste facility and add a penalty of ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties in this chapter.

(11) If any generator or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section fails to make and file a return required by this chapter on or before the due date of the return or the due date as extended by the cabinet, unless it is shown to the satisfaction of the cabinet, that the failure is due to reasonable cause, five percent (5%) of the assessment found to be due by the cabinet shall be added to the assessment for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which it is filed, but the total penalty shall not exceed twenty-five percent (25%) of the assessment.

(12) If the assessment imposed by this chapter, whether assessed by the cabinet, or the generator, or any installment or portion of the assessment is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the assessment, interest upon the unpaid amount at the rate of eight percent (8%) per annum from the date prescribed for its payment until payment is actually made to the cabinet.

(13) There is hereby created within the State Treasury a trust and agency fund which shall not lapse to be known as the hazardous waste management fund. The fund shall be deposited in an interest-bearing account. The cabinet shall be responsible for collecting and receiving funds as provided in this section, and all such assessments collected or received by the State Treasury shall be deposited in the hazardous waste management fund. All interest earned on the money deposited in the fund shall be deposited to the fund. When the State Treasurer certifies to the cabinet that the uncommitted balance of the hazardous waste management fund exceeds six million dollars ($6,000,000), assessments shall not be collected until the State Treasurer certifies to the cabinet that the balance in the hazardous waste management fund is less than three

million dollars ($3,000,000). The implementation of the cap on the fund shall be suspended from July 13, 1990, until July 1, 1991. In addition, for assessments paid after July 1, 1991, the cabinet shall refund or grant a credit against the next assessment to come due, on a pro-rated basis, any money collected in one (1) year in excess of the cap.

(14) There is hereby created within the State Treasury a trust and agency account which shall not lapse to be known as the pollution prevention fund. The fund shall be placed in an interest-bearing account. The fund shall be administered by the Center for Pollution Prevention. The cabinet shall remit to the fund each fiscal year twenty percent (20%) of the funds received by the hazardous waste management fund subject to the enacted budget bill. The cabinet shall provide to the center estimates of the amount of the hazardous waste assessment expected to be collected during each upcoming fiscal year.

(15) Upon request of the secretary, moneys accumulated in the hazardous waste management fund shall be released in amounts necessary to accomplish the performance of the duties imposed by subsection (3) of this section. However, moneys from the fund shall not be used when federal moneys are available to carry out these duties, except when immediate action is required to protect public health or the environment, in which case the cabinet shall actively pursue reimbursement of the fund by any available federal moneys.

(16) If any person responsible for a release or threatened release of a hazardous substance fails to take response actions or to make reasonable progress in completing response actions ordered by the cabinet, the cabinet may bring an action to compel performance or may take appropriate response actions and order the responsible person to reimburse the cabinet for the actual costs incurred by the cabinet.

(17) If disposal activities have occurred at a hazardous waste site, the cabinet shall record in the office of the county clerk in the county in which a waste site is situated a notice containing a legal description of the property that discloses to any potential transferee that the land was used to dispose hazardous waste and that further information on the hazardous waste site may be obtained from the cabinet.

(18) No person shall affect the integrity of the final cover, liners, or any other components of any containment system after closure of a hazardous waste site on or in which hazardous waste remains without prior written approval of the cabinet.

Representative Wilkey moved that the House concur in the Senate Committee Substitute to **HB 244**. Agreed.

Representative Wilkey moved that **HB 244**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 8, 2002, roll call on **HB 244** - Appendix.)

HB 244, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 244**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 399, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non concurrence in Senate Amendment. Agreed.

The Senate Committee Amendment No. 1 to **HB 399** is as follows:

On page 17, after line 5, by inserting:

"Section 23. KRS 363.530 is amended to read as follows:

Fractional parts of any unit of weight or measure shall mean like fractional parts of the value of ***the***~~[such]~~ unit as prescribed or defined in KRS 363.520 and subsection *(13)*~~[(14)]~~ of KRS 363.510, and all contracts concerning the sale of commodities and services shall be construed in accordance with this requirement."; and

By renumbering the remaining sections.

Representative Pasley moved that the House concur in the Senate Committee Amendment No. 1 to **HB 399**. Agreed.

Representative Pasley moved that **HB 399**, as amended, by the Senate, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 8, 2002, roll call on **HB 399** - Appendix.)

HB 399, as amended, by the Senate, was passed and the title agreed to.

Representative Pasley moved that the vote by which **HB 399**, as amended, by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved to waive the posting requirement on **HJR 214**. Agreed.

Representative Stumbo moved that the rules be suspended for Introductions of Bills and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HR 225, by Representatives Moberly and Palumbo: A RESOLUTION adjourning the House of Representatives in honor of Joanne K. Glasser upon the occasion of her Inauguration as the tenth President of Eastern Kentucky University.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Licensing and Occupations: **SB 230**

Education: **SB 99, SB 192, SB 159, HJR 215, HB 856, HB 873**

Labor and Industry: **HB 636, HB 782, HB 803, HB 832, HB 851**

Health and Welfare: **HB 765**

Judiciary: **HB 734, HB 781, HB 638, HB 863, HB 360, HB 784, HB 805, SB 97, SB 111**

Economic Development: **SB 134, HB 841**

Motions, Petitions, and Communications (Continued)

Representative Feeley moved the adoption of the following **HR 224**:

HR 224, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Richard James Dake.

With deepest respect and admiration, we pay homage and tribute to Richard James Dake, and we pause in silent reverence for his soul.

WHEREAS, Richard James Dake was born on August 25, 1953, a native of Chicago, Illinois, and longtime resident of La Grange, Oldham County, Kentucky, and he traversed these earthly bounds on March 4, 2002; and

WHEREAS, Richard James Dake was the loving son of the late Richard Jackson Dake and Marie Craig Dake, he was the devoted husband of Lynnette Knoff Dake, and he was the loving father of a daughter, Samantha A. Dake of La Grange, and three sons, Richard J. Dake and Nathan K. Dake, both of La Grange, and David M. Dake of Sulphur; and

WHEREAS, Richard James Dake served his country with distinction as 1st Sergeant in the United States Army; he was a safety specialist for the Kentucky Correctional Institute for Women in Pewee Valley, and he was a volunteer fireman for the La Grange Fire and Rescue Department; and

WHEREAS, the premature passing of Richard James Dake has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the premature passing of Richard James Dake, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Richard James Dake. His funeral service is being held on March 8, 2002, at 11:00 A.M., at the Ballardsville Baptist Church, with burial in the Valley of Rest Cemetery in La Grange.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Lynnette Knoff Dake, 500 Maplecrest Drive, La Grange, Kentucky 40031.

There being no objection **HR 224** was adopted.

Representative Nesler moved the adoption of the following **Legislative Citation No. 79**.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Graves County High School for extraordinary academic achievement resulting from inherent classroom performance, a dedication to learning and commitment to community involvement. Now let it be known that exemplary academic excellence such as has been demonstrated by Graves County High School, herein, has earned the school the College Board's "Access to Excellence" award for its commitment to the Advancement Placement Program achieving higher than schools in ten other states. The Kentucky House of Representatives joins Representative Fred Nesler for exemplary programs that challenge students. This time honored body recognizes the visionary leadership and remarkable abilities of Graves County High School and offers best wishes for continued academic successes in this decade and beyond. Done in Frankfort, Kentucky, this eighth day of March, in the year two thousand and two.

Legislative Citation No. 79 was adopted without objection.

Representative Sims moved the adoption of the following **Legislative Citation No. 80**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Norman Taylor and joins with Representative Dottie J. Sims in expressing deepest sympathy to the Taylor Family and all those who share in the untimely loss of this distinguished citizen. Preceded in death by his parents, Hillard and Mable Thompson Taylor; and sister, Mae Townsend, he is survived by his devoted wife, Paulette White Taylor; cherished daughter, Katrina Marie Taylor; devoted siblings, Wilma Logsdon and Waymon, Oral, Armond, Kenneth and Jerry Taylor; and his many friends and colleagues. An arson investigator employed by the Kentucky State Police Post #3, CPR Instructor for the American Heart Association, acting president of the Kentucky State Police Professional Association, and member of the Fraternal Order of Police, the Bearwallow Masonic Lodge F&AM 231 and the Cub Run United Methodist Church, Norman Taylor is remembered on this day for the many and generous contributions he made to his family, community and this great Commonwealth. Done in Frankfort, Kentucky, this eighth day of March, in the year two thousand and two.

Legislative Citation No. 80 was adopted without objection.

Representative Moberly moved the adoption of the following **HR 225**:

HR 225, A RESOLUTION adjourning the House of Representatives in honor of Joanne K. Glasser upon the occasion of her Inauguration as the tenth President of Eastern Kentucky University.

WHEREAS, Joanne K. Glasser graduated from George Washington University in Washington, D. C. with a B.A. degree in political science; she earned her J.D. degree at the University of Maryland School of Law; and she also earned a certificate from the Harvard Graduate School of Education, Institute of Education Management; and

WHEREAS, Joanne K. Glasser had an impressive academic career at Towson University in Baltimore, Maryland, where she served as executive vice president of institutional advancement, and where she was involved in decision-making at the highest level, and she also served as executive assistant to the president and as the Affirmative Action officer; and she has distinguished herself professionally as Baltimore County labor commissioner, assistant county attorney for the Baltimore County attorney's office, and bailiff and law clerk for the Baltimore City Circuit Court; and

WHEREAS, Joanne K. Glasser has the ability to interact with others at all levels, and she brings with her effective leadership, intellectual quality, and fundraising experience, all prerequisites to her appointment as president of Eastern Kentucky University, where she has been openly accepted by the students, faculty, and staff of the university; and we are reminded that throughout her career, ethics and integrity have played a large part toward her academic and professional achievements; and

WHEREAS, Eastern Kentucky University and our great Commonwealth are honored and privileged to have Joanne K. Glasser accept the position of tenth President of Eastern Kentucky University; and

WHEREAS, the Inauguration of Joanne K. Glasser as tenth president of Eastern Kentucky University will be held on Friday, March 8, 2002, at 3:00 P.M. in Alumni Coliseum on the Eastern Kentucky University campus in Richmond, Kentucky, and followed by a reception from 4:30 P.M. to 6 P.M. in the coliseum's main concourse;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby congratulate and applaud Joanne K. Glasser upon her Inauguration as the tenth President of Eastern Kentucky University on Friday, March 8, 2002, and we wish to her continued success in all future endeavors.

Section 2. When the House of Representatives adjourns this day, March 7, 2002, it does so in honor of Joanne K. Glasser upon her Inauguration as tenth president of Eastern Kentucky University.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Joanne K. Glasser, Esquire, Eastern Kentucky University, 521 Lancaster Avenue, CPO 1-A, Richmond, Kentucky 40475.

There being no objection **HR 225** was adopted.

Representative Palumbo moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Palumbo moved that she be recorded as voting "yea" on **HB 399**. Agreed.

Representative Nelson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nelson moved that his vote be changed from "nay" to "yea" on **HB 553**. Agreed.

Representative Horlander moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Horlander moved that he be recorded as voting "yea" on **HCR 147** and **HB 731**. Agreed.

Representative Horlander moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Horlander moved that he be recorded as voting "nay" on the Committee Substitute and Floor Amendment No. 1 on **HB 188**. Agreed.

Representative Haydon moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Haydon moved that his vote be changed from "yea" to "nay" on **HB 138**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HR 48**. Agreed.

Representative Upchurch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Upchurch moved that he be recorded as voting "nay" on **HB 679**. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 112, HB 115, HB 231, HB 273, HB 320, HB 422, HB 549,** and **HCR 72** were delivered to the Senate and signed by the President. Delivered to the Governor on March 8, 2002, at 10:45 a.m.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 656**, by Representative J. Turner:

On page 1, line 21, after "director." by deleting "***The***", and by deleting lines 22 through 25 in their entirety; and on page 2, by deleting line 1 in its entirety and inserting the following in lieu thereof:

"***If an employer knowingly violates a safety or health statute, standard, or administrative regulation, and an injury or death results therefrom, the employer shall not be exempt from liability under this section.***".

Floor Amendment No. 1 to the Committee Substitute to **HB 596**, by Representative Simpson:

On page 1, line 16, before the words "***county employee***", insert the words "***city or***"; and

On page 1, line 18, before the words "***county employee***", insert the words "***city or***"; and

On page 1, line 19, before the words "***county employee***", insert the words "***city or***"; and

On page 1, at the beginning of line 22, before the words "***county employee***", insert the words "***city or***"; and

On page 1, at the beginning of line 24 after the first word "the", insert the words "***city or***"; and

On page 1, line 24 after the word "***a***", insert the words "***city or***"; and

On page 2, line 2, before the word "***county***", insert the words "***city or***"; and

On page 2, line 4, before the words "***county employee,***", insert the words "***city or***"; and

On page 2, line 6, before the words "***county employee***", insert the words "***city or***"; and

On page 2, line 10, before the words "***county employee***", insert the words "***city or***"; and

On page 2, line 13, before the words "***county employee***", insert the words "***city or***"; and

On page 2, line 18, before the words "***county employee***", insert the words "***city or***"; and

On page 2, line 23, before the word "***county***", insert the words "***city or***"; and

On page 2, line 25, before the word "***county***", insert the words "***city or***"; and

On page 2, line 26, before the words "***county employee***", insert the words "***city or***"; and

On page 2, line 27, before the words "*county employee*", insert the words "*city or*"; and

On page 3, line 1, before the words "*county employee's*", insert the words "*city or*"; and

On page 3, line 3, before the words "*county employee*", insert the words "*city or*"; and

On page 3, line 4, before the words "*county employee's*", insert the words "*city or*"; and

On page 3, line 5, before the words "*county employee*", insert the words "*city or*"; and

On page 3, line 7, before the words "*county employee*", insert the words "*city or*"; and

On page 3, line 10, before the words "*county employee*", insert the words "*city or*"; and

On page 3, line 14, before the word "*county*", insert the words "*city or*"; and

On page 3, after line 18 and before line 19, insert the following new language:

"*(10) As used in subsections (2) to (7) of this section, "city employee" means an employee of a city of any class, including an employee of a city elected official.*".

Floor Amendment No. 1 to the Committee Substitute to **HB 618**, by Representative Bratcher:

On Page 2, after Line 21 by inserting the following:

"SECTION 2. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) In any county with an air pollution control district that has established a vehicle emissions control program as a means of meeting the NAAQS there shall be placed upon the ballot in the general election of 2002 the following question: "Are you in favor of a phased-out termination of the vehicle emissions testing program in this county over the period of the next six years?"

(2) If a majority of the voters vote in the affirmative, then the air pollution control district shall determine the procedures for a phased termination of the vehicle emissions testing program and implement these procedures. If the air pollution control district employs a contractor to administer the vehicle emissions test program, then the air pollution control board shall determine the procedures for a phased termination of the vehicle emissions testing program and shall have these procedures incorporated into any contract that the air pollution control board may negotiate with any contractor for the administration of the vehicle emissions testing program."

Floor Amendment No. 2 to the Committee Substitute to **HB 637**, by Representative Stein:

On page 1, line 22, delete "*33*" and insert "*32*" in lieu thereof; and

On page 2, line 8, after "*161.520,*" delete "*and Sections 22, 31, and 32*" and insert in lieu thereof "*KRS 161.663, and Sections 22 and 31*"; and

On page 44, line 15, delete "*33*" and insert "*32*" in lieu thereof; and

On page 44, line 17, delete "*Section 32 of this Act*" and insert in lieu thereof "*KRS 161.663*"; and

On page 64, delete lines 19 through 27 in their entirety; and

On page 65, delete line 1 in its entirety; and

Renumber subsequent sections accordingly.

Floor Amendment No. 3 to the Committee Substitute to **SB 74**, by Representative Rasche:

On page 1, line 4 by deleting "*board-approved preparatory*" and inserting "*college-level*" in lieu thereof; and

On page 1, lines 10 and 11 by deleting "*College Board and Educational Testing Service*" and inserting "*the College Entrance Examination Board*" in lieu thereof; and

On page 1, line 12 by deleting "*the College Board and Educational Testing Service*" and inserting "*the College Entrance Examination Board, a national nonprofit association that provides college admission guidance and advanced placement examinations*" in lieu thereof; and

On page 1, between lines 12 and 13 by inserting the following:

"*(5) "Core curriculum" means at least one (1) course in at least four (4) of the six (6) following subject areas: English, science, mathematics, social studies, foreign language, and the arts.*"

On page 1, line 13 by changing "*(5)*" to "*(6)*"; and

On page 1, line 14 by changing "*(6)*" to "*(7)*"; and

On page 1, line 14 by deleting "*board-approved college preparatory*" and inserting "*college-level*" in lieu thereof; and

On page 1, line 14 by inserting "***developed in accordance with Section 5 of this Act***" after "***study***"; and

On page 1, line 18 by changing "***(7)***" to "***(8)***"; and

On page 1, line 18 by deleting "***college preparatory***" and inserting "***college-level***" in lieu thereof; and

On page 1, line 18 by inserting "***developed in accordance with Section 5 of this Act***" after "***study***"; and

On page 1, between lines 19 and 20 by inserting the following:

"***(9) "International Baccalaureate" means the International Baccalaureate Organization's Diploma Programme, a comprehensive two (2) year program designed for highly motivated students.***"; and

On page 1, line20 by changing "***(8)***" to "***(10)***"; and

On page 1, line 23 by changing "***(9)***" to "***(11)***"; and

On page 4, line 7 by inserting "***International Baccalaureate,***" after "***placement,***"; and

On page 4, lines 7 and 8 by and deleting "***as defined in Section 6 of this Act***"; and

On page 4, line 11 by inserting "***International Baccalaureate,***" after "***placement,***"; and

On page 4, line 16 by inserting "***International Baccalaureate,***" after "***placement,***"; and

On page 4, line 23 by deleting "***board-approved preparatory***" and inserting "***college-level***" in lieu thereof; and

On page 5, lines 2 and 3 by deleting "***College Board and Educational Testing Service***" and inserting "***the College Entrance Examination Board***" in lieu thereof; and

On page 5, line 4 by deleting "***the College Board and Educational Testing Service***" and inserting "***the College Entrance Examination Board, a national nonprofit association that provides college admission guidance and advanced placement examinations***" in lieu thereof; and

On page 5, line 6 by deleting "***board-approved college preparatory***" and inserting "***college-level***" in lieu thereof; and

On page 5, line 6 by inserting "***developed in accordance with Section 5 of this Act***" after "***study***"; and

On page 5, line 10 by deleting "***college preparatory***" and inserting "***college-level***" in lieu thereof; and

On page 5, line 10 by inserting "***developed in accordance with Section 5 of this Act***" after "***study***"; and

On page 5, between lines 11 and 12 by inserting the following:

"***(8) "International Baccalaureate" means the International Baccalaureate Organization's Diploma Programme, a comprehensive two (2) year program designed for highly motivated students.***"; and

On page 5, line 12 by changing "***(8)***" to "***(9)***"; and

On page 5, line 15 by changing "***(9)***" to "***(10)***"; and

On page 6, line 7 by deleting all of Section 6, ending on page 10, line 5; and

On page 10, line 6 by deleting all of Section 7, ending on page 19, line 19.

Floor Amendment No. 2 to the Committee Substitute to **HB 571**, by Representative Wilkey:

On page 1, line 3, following "***means***" to insert "***, with reference to intimidating a participant in the legal process,***" and to delete "***or former***"; and

On page 1, line 5, following "***Justice.***" to insert "***With reference to retaliating against a participant in the legal process, the term "judge" also includes a former justice or judge of the Court of Justice, a trial commissioner of the Court of Justice, and any person serving as a judge at a trial or judicial proceeding authorized by the Court of Justice.***"; and

On page 1, line 13, to delete "***participants***" and to insert in lieu thereof "***participant's***"

On page 2, line 2, following "***means***" to insert "***, with reference to intimidating a participant in the legal process,***" and to delete "***or former***"; and

On page 2, line 5, following "***to law.***" to insert "***With reference to retaliating against a participant in the legal process, the term "prosecutor" also includes a former Commonwealth's attorney, assistant Commonwealth's attorney, county attorney, assistant county attorney, attorney general, deputy attorney general, assistant attorney general, or special prosecutor appointed pursuant to law.***"; and

On page 2, line 6, to delete "***or indirect***"; and

On page 2, line 7, to delete "***, or to damage or***"; and

On page 2, line 8, to delete the same; and

On page 2, line 9, to delete "***family member of such a person***"; and

On page 2, line 19, after "***decision,***" to insert "***or***"; and

On page 2, line 19, to delete "***, or***"; and

On page 2, line 20, to delete "*other action*"; and

On page 3, line 2, to delete the bracketing and strike through of "or"; and

On page 3, line 6, to delete the semicolon";" and

On page 3, lines 7 and 8, to delete all new language on that line; and

On page 3, between lines 16 and 17, to insert the following:

"*(4) In order for a person to be convicted of a violation of this section, the act against a participant in the legal process or the immediate family of a participant in the legal process shall be related to the performance of a duty or role played by the participant in the legal process.*"; and

On page 4, line 2, after "*decision,*" to insert "*or*" and to delete "*, or other action*" and, following the semicolon ";" to insert "*or*"; and

On page 4, line 3, to delete "*; or*" and

On page 4, line 4, to delete all new language on that line; and

On page 4, line 5, to delete "*For purposes of this section:*"; and

On page 4, lines 6 through 9, to delete the same; and

On page 4, line 10, to delete "*(3)*"; and

On page 4, between lines 10 and 11, to insert the following:

"*(3) In order for a person to be convicted of a violation of this section, the act against a participant in the legal process or the immediate family of a participant in the legal process shall be related to the performance of a duty or role played by the participant in the legal process.*"

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills:

HB 184, Representative Yonts

HB 542, Representatives Mobley, Palumbo, and Stewart

HB 821, Representative Vincent

HB 874, Representative Yonts.

Announcements

The following meetings were announced:

Appropriations and Revenue: meeting today, 11:00 a.m.

State Government: Monday, March 11, 2002, 2:00 p.m.

Health and Welfare: Tuesday, March 12, 2002, noon, Room 149

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m. on Monday, March 11, 2002.

The motion that the House adjourn until 4:00 p.m., Monday, March 11, 2002, was adopted by voice vote.